



# Journal of the Senate

Number 10—Special Session B

Thursday, October 8, 1987

## CALL TO ORDER

The Senate was called to order by the President at 10:06 a.m. A quorum present—37:

Mr. President	Gordon	Langley	Scott
Barron	Grant	Lehtinen	Stuart
Brown	Hair	Malchon	Thomas
Childers, D.	Hill	Margolis	Thurman
Childers, W. D.	Hollingsworth	McPherson	Weinstein
Crawford	Jenne	Meek	Weinstock
Crenshaw	Jennings	Myers	Woodson
Deratany	Johnson	Peterson	
Dudley	Kirkpatrick	Plummer	
Frank	Kiser	Ros-Lehtinen	

Excused: Senators Beard and Grizzle

## PRAYER

The following prayer was offered by Josh Stephens, Assistant to the Senate Sergeant at Arms:

Our Father, we come this morning thanking you for your blessings on the State of Florida and its people. We're asking for your continued blessings on this legislative body that they may be strengthened in their efforts to meet the needs of the state and its people. Unite their hearts and minds with a sense of compassion and justice. Amen.

## MESSAGES FROM THE HOUSE OF REPRESENTATIVES

*The Honorable John W. Vogt, President*

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required Constitutional two-thirds vote of the membership of the House and passed HB 28-B and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

By Representative Silver and others—

**HB 28-B**—A bill to be entitled An act relating to carrying of weapons and firearms; creating s. 790.053, F.S., to restrict the open carrying of weapons or firearms on or about the person and to authorize the open carrying of certain weapons and devices; providing a penalty; amending s. 790.25, F.S.; correcting and updating statutory cross-references relating to requirements for carrying firearms and other weapons; providing an effective date.

On motions by Senator Johnson, by the required constitutional two-thirds vote of the Senate, HB 28-B was admitted for introduction and referred to the Committee on Judiciary-Criminal.

On motions by Senator Johnson, by two-thirds vote HB 28-B was withdrawn from the Committee on Judiciary-Criminal and by unanimous consent taken up instanter.

On motions by Senator Johnson, by two-thirds vote HB 28-B was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Childers, D.	Crenshaw	Frank
Barron	Childers, W. D.	Deratany	Gordon
Brown	Crawford	Dudley	Grant

Hair	Kiser	Meek	Stuart
Hill	Langley	Myers	Thomas
Hollingsworth	Lehtinen	Peterson	Thurman
Jenne	Malchon	Plummer	Weinstein
Jennings	Margolis	Ros-Lehtinen	Weinstock
Johnson	McPherson	Scott	

Nays—None

Vote after roll call:

Yea—Girardeau, Kirkpatrick and Woodson

## RECESS

On motion by Senator Barron, the Senate recessed at 10:14 a.m. to reconvene upon call of the President, but not earlier than 1:00 p.m.

## AFTERNOON SESSION

The Senate was called to order by the President at 3:22 p.m. A quorum present—38:

Mr. President	Girardeau	Kiser	Ros-Lehtinen
Barron	Gordon	Langley	Scott
Brown	Grant	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crawford	Hollingsworth	McPherson	Weinstein
Crenshaw	Jenne	Meek	Weinstock
Deratany	Jennings	Myers	Woodson
Dudley	Johnson	Peterson	
Frank	Kirkpatrick	Plummer	

## Motion

On motion by Senator Johnson, the rules were waived and HB 28-B was ordered immediately certified to the House.

## Consideration of Resolution

On motion by Senator Meek, by unanimous consent—

By Senators Meek, Thomas, W. D. Childers, Hollingsworth and Barron—

**SR 36-B**—A resolution recognizing and commemorating the 100th Anniversary of the founding of Florida A&M University.

WHEREAS, on October 3, 1887, the State Normal College for Colored Students began classes with 15 students and two instructors, and

WHEREAS, from this inception 100 years ago, Florida A&M University has grown to become a full partner in the public university system of the state, and

WHEREAS, with a present enrollment of 5,600 students, the twelve colleges and schools of Florida A&M University offer undergraduate through doctoral programs that have gained international recognition for academic excellence, and

WHEREAS, the outstanding graduates of this institution reflect the ideals and the spirit of excellence of Florida A&M University, and

WHEREAS, Florida A&M University looks forward to continuing to create leaders of the future as it enters its second century, NOW, THEREFORE,

*Be It Resolved by the Senate of the State of Florida:*

That the Senate of the State of Florida hereby recognizes the contributions made by Florida A&M University to the growth of higher education within the state and commends this great institution in its Centennial Year.

BE IT FURTHER RESOLVED that a copy of this resolution, signed by the President of the Senate and with the Seal of the Senate affixed, be presented to Dr. Frederick S. Humphries, President of Florida A&M University, and member of the Class of 1957.

—was introduced out of order and read the first time by title. On motion by Senator Meek, SR 36-B was read the second time in full and adopted. The vote on adoption was:

Yeas—38

Mr. President	Girardeau	Kiser	Ros-Lehtinen
Barron	Gordon	Langley	Scott
Brown	Grant	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crawford	Hollingsworth	McPherson	Weinstein
Crenshaw	Jenne	Meek	Weinstock
Deratany	Jennings	Myers	Woodson
Dudley	Johnson	Peterson	
Frank	Kirkpatrick	Plummer	

Nays—None

All Senators voting were recorded as co-introducers.

## INTRODUCTION AND REFERENCE OF BILLS

On motion by Senator Hollingsworth, by the required constitutional two-thirds vote of the Senate the following bill was admitted for introduction:

**SB 35-B**—A bill to be entitled An act relating to hunting; amending s. 372.57, F.S.; providing license fees for residents of contiguous states to take game within private hunting preserves in this state; providing an effective date.

—which was referred to the Committee on Natural Resources and Conservation.

On motions by Senator Hollingsworth, by two-thirds vote SB 35-B was withdrawn from the Committee on Natural Resources and Conservation and by unanimous consent taken up instanter.

On motions by Senator Hollingsworth, by two-thirds vote SB 35-B was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Girardeau	Kiser	Ros-Lehtinen
Barron	Gordon	Langley	Scott
Brown	Grant	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crawford	Hollingsworth	McPherson	Weinstein
Crenshaw	Jenne	Meek	Weinstock
Deratany	Jennings	Myers	Woodson
Dudley	Johnson	Peterson	
Frank	Kirkpatrick	Plummer	

Nays—None

On motion by Senator Hollingsworth, the rules were waived and SB 35-B was ordered immediately certified to the House.

## MESSAGES FROM THE HOUSE OF REPRESENTATIVES

*The Honorable John W. Vogt, President*

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for CS for SB 5-B and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

**CS for CS for SB 5-B**—A bill to be entitled An act relating to taxation; amending ss. 212.02, 212.03, 212.031, 212.04, 212.05, 212.054, 212.055, 212.0598, 212.06, 212.07, 212.08, 212.095, 212.11, 212.12, 212.13, 212.14, 212.17, 212.18, 212.21, 212.61, F.S.; repealing ss. 212.059, 212.0591, 212.0592, 212.0593, 212.0594, 212.0595, F.S.; amending s. 32, ch. 87-86, Laws of Florida, as amended; repealing ss. 31, 37, 47, ch. 87-6, Laws of Florida, as amended; repealing the sales tax on services and conforming various statutes to that repeal; providing criteria for taxing certain air-

craft, boats, motor vehicles, or mobile homes in counties levying discretionary sales surtaxes; providing exemptions from the tax on sales, use, and other transactions; increasing the tax on transient rentals, the lease or rental of or license in real property, admissions, and sales, storage, and use; providing for retention of records relating to the sales tax on services for a certain period; amending s. 240.533, F.S.; requiring an amount equal to lost sales tax revenue to be used by certain education institutions for women's athletics; amending s. 288.385, F.S.; providing tax exemptions for certain currency and barter exchanges; amending ss. 201.02, 201.15, 215.32, F.S.; repealing the increase in the documentary stamp tax and providing for redistribution of tax proceeds; repealing ss. 206.87(1)(b), 206.875(3), F.S.; repealing the increase in diesel fuel taxes; amending s. 207.026, F.S.; providing for redistribution of taxes; amending s. 212.235, F.S.; revising certain limitations on the State Infrastructure Fund funding; providing for certain allocations from the fund for certain purposes; providing for application of the additional sales or use tax to certain utility services; providing transition rules for the repeal of the services tax; providing for refund of additional taxes paid by certain contractors; providing penalties; saving certain actions from abatement; amending s. 218.61, F.S.; revising the local government half-cent sales tax distribution formula; creating in the Executive Office of the Governor a State Tax Study Committee to study state and local government taxing structures and funding sources; providing for membership, meetings, duties, and staff of the committee; requiring reports; providing for per diem and travel expenses; providing an appropriation; providing for certain positions and funding to be placed in reserve; amending ss. 216.011, 216.046, 216.081, 216.167, 216.181, 216.292, 216.301, 235.41, F.S.; defining the term "proviso"; providing for Governor's supplemental recommendations; providing for data on legislative expenses; providing for Governor's recommendations; providing for appropriation committee statements of intent; providing for transferability and transfer of appropriations; providing for legislative capital outlay budget request; repealing s. 216.031(7), F.S., as amended, relating to information required in legislative budget requests; providing severability; providing an effective date.

**Amendment 1**—On page 3, line 11, strike everything after the enacting clause and insert:

## PART I

Section 1. Sections 212.059, 212.0591, and 212.0595, Florida Statutes, as created by chapter 87-6, Laws of Florida, and amended by chapters 87-72 and 87-101, Laws of Florida, are hereby repealed.

Section 2. Sections 212.0592 and 212.0593, Florida Statutes, as created by chapter 87-6, Laws of Florida, and amended by chapter 87-101, Laws of Florida, are hereby repealed.

Section 3. Section 212.0594, Florida Statutes, as created by chapter 87-101, Laws of Florida, is hereby repealed.

Section 4. Section 212.03, Florida Statutes, is amended to read:

212.03 Transient rentals tax; rate, procedure, enforcement, exemptions.—

(1) It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, or letting any living quarters or sleeping or housekeeping accommodations in, from, or a part of, or in connection with any hotel, apartment house, roominghouse, or tourist or trailer camp. For the exercise of such privilege, a tax is hereby levied in an amount equal to 5.5 percent of and on the total rental charged for such living quarters or sleeping or housekeeping accommodations by the person charging or collecting the rental. Such tax shall apply to hotels, apartment houses, roominghouses, or tourist or trailer camps whether or not there is in connection with any of the same any dining rooms, cafes, or other places where meals or lunches are sold or served to guests.

(2) The tax provided for herein shall be in addition to the total amount of the rental, shall be charged by the lessor or person receiving the rent in and by said rental arrangement to the lessee or person paying the rental, and shall be due and payable at the time of the receipt of such rental payment by the lessor or person, as defined in this chapter, who receives said rental or payment. The owner, lessor, or person receiving the rent shall remit the tax to the department at the times and in the manner hereinafter provided for dealers to remit taxes under this chapter. The same duties imposed by this chapter upon dealers in tangible personal property respecting the collection and remission of the tax; the making of returns; the keeping of books, records, and accounts; and the compli-

ance with the rules and regulations of the department in the administration of this chapter shall apply to and be binding upon all persons who manage or operate hotels, apartment houses, roominghouses, tourist and trailer camps, and the rental of condominium units, and to all persons who collect or receive such rents on behalf of such owner or lessor taxable under this chapter.

(3) When rentals are received by way of property, goods, wares, merchandise, services, or other things of value, the tax shall be at the rate of 5.5 5 percent of the value of the property, goods, wares, merchandise, services, or other things of value.

(4) The tax levied by this section shall not apply to, be imposed upon, or collected from any person who shall have entered into a bona fide written lease for longer than 6 months in duration for continuous residence at any one hotel, apartment house, roominghouse, tourist or trailer camp, or condominium, or to any person who shall reside continuously longer than 6 months at any one hotel, apartment house, roominghouse, tourist or trailer camp, or condominium and shall have paid the tax levied by this section for 6 months of residence in any one hotel, roominghouse, apartment house, tourist or trailer camp, or condominium. Notwithstanding other provisions of this chapter, no tax shall be imposed upon rooms provided guests when there is no consideration involved between the guest and the public lodging establishment. Further, any person who, on the effective date of this act, has resided continuously for 6 months at any one hotel, apartment house, roominghouse, tourist or trailer camp, or condominium, or, if less than 6 months, has paid the tax imposed herein until he shall have resided continuously for 6 months, shall thereafter be exempt, so long as such person shall continuously reside at such location. The Department of Revenue shall have the power to reform the rental contract for the purposes of this chapter if the rental payments are collected in other than equal daily, weekly, or monthly amounts so as to reflect the actual consideration to be paid in the future for the right of occupancy during the first 6 months.

(5) The tax imposed by this section shall constitute a lien on the property of the lessee or rentee of any sleeping accommodations in the same manner as and shall be collectible as are liens authorized and imposed by ss. 713.68 and 713.69.

(6) It is the legislative intent that every person is engaging in a taxable privilege who leases or rents parking or storage spaces for motor vehicles in parking lots or garages, who leases or rents docking or storage spaces for boats in boat docks or marinas, or who leases or rents tie-down or storage space for aircraft at airports. For the exercise of this privilege, a tax is hereby levied at the rate of 5.5 5 percent on the total rental charged.

(7)(a) Full-time students enrolled in an institution offering postsecondary education and military personnel currently on active duty who reside in the facilities described in subsection (1) shall be exempt from the tax imposed by this section. The department shall be empowered to determine what shall be deemed acceptable proof of full-time enrollment. The exemption contained in this subsection shall apply irrespective of any other provisions of this section. The tax levied by this section shall not apply to or be imposed upon or collected on the basis of rentals to any person who resides in any building or group of buildings intended primarily for lease or rent to persons as their permanent or principal place of residence.

(b) It is the intent of the Legislature that this subsection provide tax relief for persons who rent living accommodations rather than own their homes, while still providing a tax on the rental of lodging facilities that primarily serve transient guests.

(c) The rental of facilities, including trailer lots, which are intended primarily for rental as a principal or permanent place of residence is exempt from the tax imposed by this chapter. The rental of facilities that primarily serve transient guests is not exempt by this subsection. In the application of this law, or in making any determination against the exemption, the department shall consider and be guided by, among other things:

1. Whether or not a facility caters primarily to the traveling public;
2. Whether less than half of the total rental units available are occupied by tenants who have a continuous residence in excess of 3 months; and
3. The nature of the advertising of the facility involved.

(d) The rental of living accommodations in migrant labor camps is not taxable under this section. "Migrant labor camps" are defined as one or more buildings or structures, tents, trailers, or vehicles, or any portion thereof, together with the land appertaining thereto, established, operated, or used as living quarters for seasonal, temporary, or migrant workers.

Section 5. Paragraphs (c) and (d) of subsection (1) of section 212.031, Florida Statutes, as amended by sections 8 and 25 of chapter 87-6 and section 10 of chapter 87-101, Laws of Florida, are amended to read:

212.031 Lease or rental of or license in real property.—

(1)

(c) For the exercise of such privilege, a tax is levied in an amount equal to 5.5 5 percent of and on the total rent or license fee charged for such real property by the person charging or collecting the rental or license fee.

(d) When the rental or license fee of any such real property is paid by way of property, goods, wares, merchandise, services, or other thing of value, the tax shall be at the rate of 5.5 5 percent of the value of the property, goods, wares, merchandise, services, or other thing of value.

Section 6. Section 212.04, Florida Statutes, as amended by sections 9 and 25 of chapter 87-6 and section 11 of chapter 87-101, Laws of Florida, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(1)(a) It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who sells or receives anything of value by way of admissions.

(b) For the exercise of such privilege, a tax is levied at the rate of 5.5 5 percent of sales price, or the actual value received from such admissions, which 5.5 5 percent shall be added to and collected with all such admissions from the purchaser thereof; and such tax shall be paid for the exercise of the privilege as defined in the preceding paragraph. Each ticket shall show on its face the actual sales price of admission, and the tax shall be computed and collected on the basis of each such admission price. The sale price or actual value of admission shall, for the purpose of this chapter, be that price remaining after deduction of federal taxes, if any, imposed upon such admission; and the rate of tax on each admission shall be according to the brackets established by s. 212.12(9)(10).

(2)(a)1. No tax shall be levied on admissions to athletic or other events sponsored by elementary schools, junior high schools, middle schools, high schools, community colleges, public or private colleges and universities, deaf and blind schools, facilities of the youth services programs of the Department of Health and Rehabilitative Services, and state correctional institutions when only student, faculty, or inmate talent is utilized. However, this exemption shall not apply to admission to athletic events sponsored by an institution within the State University System, and the proceeds of the tax collected on such admissions shall be retained and utilized by each institution to support women's athletics as provided in s. 240.533(4)(c).

2. No tax shall be levied on dues, membership fees and admission charges imposed by not-for-profit religious sponsoring organizations. To receive this exemption, the sponsoring organization must qualify as a not-for-profit entity under the provisions of s. 501(c)(3) of the United States Internal Revenue Code of 1954, as amended.

3. No tax shall be levied on an admission paid by a student, or on his behalf, to any required place of sport or recreation if the student's participation in the sport or recreational activity is required as a part of a program or activity sponsored by, and under the jurisdiction of, the student's educational institution, provided his attendance is as a participant and not as a spectator.

4. No tax shall be levied on admissions to the National Football League championship game.

5. No tax shall be levied on admissions to athletic or other events sponsored by governmental entities.

(b) No municipality of the state shall levy an excise tax on admissions.

(c) The taxes imposed by this section shall be collected in addition to the admission tax collected pursuant to s. 550.09, but the amount collected under s. 550.09 shall not be subject to taxation under this chapter.

(3) Such taxes shall be paid and remitted at the same time and in the same manner as provided for remitting taxes on sales of tangible personal property, as hereinafter provided.

(4) Each person who exercises the privilege of charging admission taxes, as herein defined, shall apply for, and at that time shall furnish the information and comply with the provisions of s. 212.18 not inconsistent herewith and receive from the department, a certificate of right to exercise such privilege, which certificate shall apply to each place of business where such privilege is exercised and shall be in the manner and form prescribed by the department. Such certificate shall be issued upon payment to the department of a registration fee of \$5 by the applicant. Each person exercising the privilege of charging such admission taxes as herein defined shall cause to be kept records and accounts showing the admission which shall be in the form as the department may from time to time prescribe, inclusive of records of all tickets numbered and issued for a period of not less than 3 years, and inclusive of all bills or checks of customers who are charged any of the taxes defined herein, showing the charge made to each for a period of not less than 3 years. The department is empowered to use each and every one of the powers granted herein to the department to discover the amount of tax to be paid by each such person and to enforce the payment thereof as are hereby granted the department for the discovery and enforcement of the payment of taxes hereinafter levied on the sales of tangible personal property. The failure of any person to pay such taxes before the 21st day of the succeeding month after the taxes are collected shall render such person liable to the same penalties that are hereafter imposed upon such person for being delinquent in the payment of taxes imposed upon the sales of tangible personal property; and the failure of any person to render returns and to pay taxes as prescribed herein shall render such person subject to the same penalties, by way of charges for delinquencies, at the rate of 5 percent per month for a total amount of tax delinquent up to a total of 25 percent of such tax, and at the rate of 50-percent penalty for attempted evasion of payment of any such tax or for any attempt to file false or misleading returns that are required to be filed by the department.

(5) All of the provisions of this chapter relating to collection, investigation, discovery, and aids to collection of taxes upon sales of tangible personal property shall likewise apply to all privileges described or referred to in this section; and the obligations imposed in this chapter upon retailers are hereby imposed upon the seller of such admissions. When tickets or admissions are sold and not used but returned and credited by the seller, the seller may apply to the department for a credit allowance for such returned tickets or admissions if advance payments have been made by the buyer and have been returned by the seller, upon such form and in such manner as the department may from time to time prescribe; and the department may, upon obtaining satisfactory proof of the refunds on the part of the seller, credit the seller for taxes paid upon admissions that have been returned unused to the purchaser of those admissions. The seller of admissions, upon the payment of the taxes before they become delinquent and the rendering of the returns in accordance with the requirement of the department and as provided in this law, shall be entitled to a discount of 3 percent of the amount of taxes upon the payment thereof before such taxes become delinquent, in the same manner as permitted the sellers of tangible personal property in this chapter. However, if the amount of the tax due and remitted to the department for the reporting period exceeds \$1,000, the 3-percent discount shall be reduced to 1 percent for all amounts in excess of \$1,000.

(6) Admission taxes required to be paid by this chapter shall be paid to the department by the owner or the collector of such admission. When any place of business is sold or transferred by any owner, wherein such admission taxes have accrued or are accruing, such owner shall be obligated before such sale becomes effective to notify the department of such pending sale and secure from the department a certificate of registration as prescribed in this section, and the purchaser shall become obligated to withhold from the sales price such sum of money as will safely be required to discharge all accrued admission taxes upon such places of business; and, upon the failure of any such purchaser to withhold, he shall become obligated to pay all accrued admission taxes, and the same shall become a lien upon all of the purchaser's assets until the same have been paid and fully discharged.

(7) The taxes under this section shall become a lien upon the assets of the owner of any business exercising the privilege of selling admissions,

and the collection of such admissions, as defined hereunder, and shall remain a lien until fully paid and discharged. Such lien may be enforced in the manner provided hereinafter for the enforcement of the collection of taxes imposed upon the sales of tangible personal property.

(8) The word "owners" as used in this chapter shall be taken to include and mean all persons obligated to collect and pay over to the state the tax imposed under this section, inclusive of all holders of certificates of registration issued as herein provided. Wherever the word "owner" or "owners" is used herein, it shall be taken to mean and include all persons liable for such admission taxes unless it appears from the context that the words are descriptive of property owners.

Section 7. Section 212.05, Florida Statutes, as amended by section 10 of chapter 87-6, sections 2 and 9 of chapter 87-99, section 12 of chapter 87-101, and section 7 of chapter 87-402, Laws of Florida, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter section, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(a)1.a. At the rate of 5.5 5 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall, by rule, adopt the NADA Official Used Car Guide as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (f), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed, plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed after July 1, 1985, pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or airplane by or through a registered dealer under this chapter to a purchaser who removes such boat or airplane from this state within 10 days after the date of purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or alterations. In no event shall the boat or airplane remain in this state more than 90 days after the date of purchase. This exemption shall not be allowed unless the seller:

a. Obtains from the purchaser within 90 days from the date of sale written proof that the purchaser licensed, registered, or documented the boat or airplane outside the state;

b. Requires the purchaser to sign an affidavit that he has read the provisions of this section; and

c. Makes the affidavit a part of his permanent record.

In the event the purchaser fails to remove the boat or airplane from this state within 10 days after purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or alterations, or permits the boat or airplane to return to this state within 6 months from the date of departure, the purchaser shall be liable for use tax on the cost price of the boat or airplane and, in addition thereto, pay-

ment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2) and is mandatory and shall not be waived by the department.

(b) At the rate of 5.5 5 percent of the cost price of each item or article of tangible personal property when the same is not sold but is used, consumed, distributed, or stored for use or consumption in this state.

(c) At the rate of 5.5 5 percent of the gross proceeds derived from the lease or rental of tangible personal property, as defined herein, except the lease or rental of a commercial motor vehicle as defined in s. 316.003(67)(a) to one lessee or rentee for a period of not less than 12 months when tax was paid on the acquisition of such vehicle by the lessor, when the lease or rental of such property is an established business or part of an established business or the same is incidental or germane to such business.

(d) At the rate of 5.5 5 percent of the lease or rental price paid by a lessee or rentee, or contracted or agreed to be paid by a lessee or rentee, to the owner of the tangible personal property.

(e)1. At the rate of 5.5 5 percent on charges for all telegraph messages and long distance telephone calls beginning and terminating in this state; on charges for telecommunication service as defined in s. 203.012 and for those services described in s. 203.012(2)(a); on recurring charges to regular subscribers for wired television service; on all charges for the installation of telecommunication, wired television, and telegraphic equipment; and on all charges for electrical power or energy. For purposes of this part, the term "telecommunication service" does not include local service provided through a pay telephone. The provisions of s. 212.17(3), regarding credit for tax paid on charges subsequently found to be worthless, shall be equally applicable to any tax paid under the provisions of this section on charges for telecommunication or telegraph services or electric power subsequently found to be uncollectible. The word "charges" in this paragraph does not include any excise or similar tax levied by the Federal Government, any political subdivision of the state, or any municipality upon the purchase or sale of telecommunication, wired television, or telegraph service or electric power, which tax is collected by the seller from the purchaser.

2. Telegraph messages and telecommunication services which originate or terminate in this state, other than interstate private communication services, and are billed to a customer, telephone number, or device located within this state are taxable under this paragraph. Interstate private communication services are taxable under this paragraph as follows:

a. One hundred percent of the charge imposed at each channel termination point within this state;

b. One hundred percent of the charge imposed for the total channel mileage between each channel termination point within this state; and

c. The portion of the interstate interoffice channel mileage charge as determined by multiplying said charge times a fraction, the numerator of which is the air miles between the last channel termination point in this state and the vertical and horizontal coordinates, 7856 and 1756, respectively, and the denominator of which is the air miles between the last channel termination point in this state and the first channel termination point outside this state. The denominator of this fraction shall be adjusted, if necessary, by adding the numerator of said fraction to similarly determined air miles in the state in which the other channel termination point is located, so that the summation of the apportionment factor for this state and the apportionment factor for the other state is not greater than one, to ensure that no more than 100 percent of the interstate interoffice channel mileage charge can be taxed by this state and another state.

3. The tax imposed pursuant to this paragraph shall not exceed \$50,000 per calendar year on charges to any person for interstate telecommunications services defined in s. 203.012(4) and (7)(b), if the majority of such services used by such person are for communications originating outside of this state and terminating in this state. This exemption shall only be granted to holders of a direct pay permit issued pursuant to this subparagraph. No refunds shall be given for taxes paid prior to receiving a direct pay permit. Upon application, the department may issue a direct pay permit to the purchaser of telecommunications services authorizing such purchaser to pay tax on such services directly to the department. Any vendor furnishing telecommunications services to the holder of a valid direct pay permit shall be relieved of the obligation to collect and remit the tax on such service. Tax payments and returns pursuant to a

direct pay permit shall be monthly. For purposes of this subparagraph, the term "person" shall be limited to a single legal entity and shall not be construed as meaning a group or combination of affiliated entities or entities controlled by one person or group of persons. For purposes of this subparagraph, for calendar year 1986, the term "calendar year" means the last 6 months of 1986.

(f) At the rate of 5.5 5 percent on the sale, rental, use, consumption, or storage for use in this state of machines and equipment and parts and accessories therefor used in manufacturing, processing, compounding, producing, mining, or quarrying personal property for sale or to be used in furnishing communications, transportation, or public utility services.

(g) At the rate of 5 percent of the price, as determined pursuant to part II, of each gallon of motor fuel or special fuel taxable pursuant to that part, except that motor fuel and special fuel expressly taxable under this part shall be taxed as provided in paragraphs (a) and (b).

(h) Any person who purchases, installs, rents, or leases a telephone system or telecommunication system for his own use to provide himself with telephone service or telecommunication service which is a substitute for any telephone company switched service or a substitute for any dedicated facility by which a telephone company provides a communication path is exercising a taxable privilege and shall register with the Department of Revenue and pay into the State Treasury a yearly amount equal to 5.5 5 percent of the actual cost of operating such system, notwithstanding the provisions of s. 212.081(3)(b). "Actual cost" includes, but is not limited to, depreciation, interest, maintenance, repair, and other expenses directly attributable to the operation of such system. For purposes of this paragraph, the depreciation expense to be included in actual cost shall be the depreciation expense claimed for federal income tax purposes. The total amount of any payment required by a lease or rental contract or agreement shall be included within the actual cost. The provisions of this paragraph do not apply to the use by any local telephone company or any telecommunication carrier of its own telephone system or telecommunication system to conduct a telecommunication service for hire. If a system described in this paragraph is located in more than one state, the actual cost of such system for purposes of this paragraph shall be the actual cost of the system's equipment located in Florida.

(i) At the rate of 5.5 5 percent on the retail price of newspapers and magazines sold or used in Florida.

(2) The tax shall be collected by the dealer, as defined herein, and remitted by him to the state at the time and in the manner as hereinafter provided.

(3) The tax so levied is in addition to all other taxes, whether levied in the form of excise, license, or privilege taxes, and in addition to all other fees and taxes levied.

(4) The tax imposed pursuant to this part shall be due and payable according to the brackets set forth in s. 212.12.

Section 8. Effective July 1, 1988, paragraph (a) of subsection (1) of section 212.05, Florida Statutes, as amended by section 83 of chapter 87-6 and section 52 of chapter 87-101, Laws of Florida, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter section, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(a)1.a. At the rate of 5.5 5 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall, by rule, adopt the NADA Official Used Car Guide as the reference price list for any used motor vehicle which is required to

be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (f), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed, plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed after July 1, 1985, pursuant to this ~~subparagraph~~ ~~sub-subparagraph~~. ~~For purposes of this sub-subparagraph, an occasional or isolated sale is one in which the seller is not a motor vehicle dealer as defined in s. 320.27(1)(c).~~

2. This paragraph does not apply to the sale of a boat or airplane by or through a registered dealer under this chapter to a purchaser who removes such boat or airplane from this state within 10 days after the date of purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or alterations. In no event shall the boat or airplane remain in this state more than 90 days after the date of purchase. This exemption shall not be allowed unless the seller:

a. Obtains from the purchaser within 90 days from the date of sale written proof that the purchaser licensed, registered, or documented the boat or airplane outside the state;

b. Requires the purchaser to sign an affidavit that he has read the provisions of this section; and

c. Makes the affidavit a part of his permanent record.

In the event the purchaser fails to remove the boat or airplane from this state within 10 days after purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or alterations, or permits the boat or airplane to return to this state within 6 months from the date of departure, the purchaser shall be liable for use tax on the cost price of the boat or airplane and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2) and is mandatory and shall not be waived by the department.

Section 9. Effective upon this act becoming law, section 212.055, Florida Statutes, as amended by section 8 of chapter 87-99, section 1 of chapter 87-100, and section 2 of chapter 87-239, Laws of Florida, is amended, and paragraphs (c) through (i) of subsection (3) are redesignated as paragraphs (d) through (j), respectively, and a new paragraph (c) is added to said subsection to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

#### (1) CHARTER COUNTY TRANSIT SYSTEM SURTAX.—

(a) Each charter county which adopted a charter prior to June 1, 1976, and each county the government of which is consolidated with that of one or more municipalities may levy a discretionary sales surtax, subject to approval by a majority vote of the electorate of the county.

(b)1. The rate shall be up to two-elevenths ~~one-fifth (20 percent)~~ or in incremental parts thereof as established by the county governing body, of any amount of tax imposed by and paid to the state pursuant to this part, except this section and s. 212.054.

2. ~~Notwithstanding subparagraph 1., for any county the government of which is consolidated with that of one or more municipalities, upon the retirement of any bonds which were issued for the construction of roads~~

~~and bridges and which were outstanding on the effective date of this act, the rate shall be one-tenth (10 percent) of any amount of tax imposed by and paid to the state pursuant to this part, except this section and s. 212.054.~~

(c) The proposal to adopt a discretionary sales surtax as provided in this subsection and to create a rapid transit trust fund within the county accounts shall be placed on the ballot in accordance with law at a time to be set at the discretion of the governing body.

(d) Proceeds from the surtax shall be:

1. Deposited by the county in the rapid transit trust fund and shall be used only for the purposes of development, construction, equipment, maintenance, operation, supportive services, including a countywide bus system, and related costs of a fixed guideway rapid transit system; or

2. Remitted by the governing body of the county to an expressway or transportation authority created by law to be used, at the discretion of such authority, for the development, construction, operation, or maintenance of roads or bridges in the county, the operation and maintenance of a bus system, or the payment of principal and interest on existing bonds issued for the construction of such roads or bridges, and, upon approval by the county commission, such proceeds may be pledged for bonds issued to refinance existing bonds or new bonds issued for the construction of such roads or bridges.

(e) *Notwithstanding the provisions of s. 212.054(5), the surtax shall take effect on the first day of a month as fixed by the county governing body; however, the surtax shall not take effect until at least 60 days following the electors' approval.*

#### (2) INDIGENT CARE SURTAX.—

(a) The governing authority in each county which has a publicly owned, publicly operated, and publicly managed regional referral hospital, as defined in s. 154.304(4), which hospital has an affiliation agreement with a state university medical school located in that county and which hospital would have received from the county between October 1, 1982, and September 30, 1983, more than it actually received for providing health care for recipient indigent patients had 1982-1983 federal poverty guidelines been applied, is authorized to levy by ordinance, for the period January 1, 1986, through March 31, 1987, or any quarterly portion thereof, a discretionary sales surtax.

(b) The rate shall be 5 percent of any tax paid to the state pursuant to this part, except this section and s. 212.054.

(c) The provisions of s. 212.054(2)(b)1. shall not apply to the surtax authorized by this subsection.

(d) The ordinance adopted by the governing body providing for the imposition of the surtax shall set forth criteria for the selection of the providers of the health care services to be paid therefor from the proceeds thereof.

(e) The department shall disburse the moneys to the clerk of the circuit court as ex officio custodian of the funds of the authorizing county, who shall maintain the moneys in an Indigent Health Care Trust Fund. Any funds on deposit in the trust fund created pursuant to this paragraph shall be invested pursuant to general law. The moneys in an Indigent Health Care Trust Fund for an authorizing county and any interest thereon shall be expended within that county or, in the case of a negotiated joint county agreement by that authorizing county with another county, within such other county, to provide health care to certified indigent patients as defined by s. 154.304(1) who are residents of the authorizing county.

(f) In enacting this subsection the Legislature expressly finds that it would be an unconstitutional use of the taxing power of the state for any holders of any hospital revenue obligation bonds to have a lien on any of the funds raised under this subsection until those funds are received by the health care provider for services rendered as provided. The moneys in an Indigent Health Care Trust Fund for an authorizing county, and any interest thereon, shall remain the property of the State of Florida and shall be distributed by the Department of Revenue on a regular and periodic basis to the governing authority of the authorizing county, in trust, until they are paid to the account of the appropriate provider of health care services to certified indigent patients for services rendered after the effective date of this act, and the funds shall not be disbursed from the trust fund until the authorizing county has paid out of county



funds for indigent health care a sum equal to the amount which the authorizing county paid for indigent health care out of county funds in the fiscal year preceding the adoption of the authorizing ordinance.

### (3) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(a) The governing authority in each county may levy, for a period of up to 15 years from the date of levy, a discretionary sales surtax of up to one-eleventh 20 percent of any tax paid to the state pursuant to this part, except this section, s. 212.054 and s. 212.0305; provided that the governing authority in any county with a population of 50,000 or less may levy a discretionary sales surtax of two-tenths of any tax paid to the state pursuant to this part. Such governing authority may levy such surtax in an amount equal to 5, 10, 15 or 20 percent of said state tax. The levy of the surtax shall be pursuant to ordinance enacted by a majority vote plus one of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax. If the governing bodies of the municipalities representing a majority of the county's municipal population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax shall be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax. No referendum election called pursuant to the provisions of this subsection shall be held between March 9 and December 31, 1988.

(b) A statement which includes a brief general description of the projects to be funded by the surtax and which conforms to the requirements of s. 101.161 shall be placed on the ballot by the governing authority of any county which enacts an ordinance calling for a referendum on the levy of the surtax or in which the governing bodies of the municipalities representing a majority of the county's municipal population adopt uniform resolutions calling for a referendum on the surtax. The following question shall be placed on the ballot:

. . . . FOR the one-half-cent sales tax

. . . . AGAINST the one-half-cent sales tax

(c) At least 7 days prior to the governing authorities' vote on the Local Option Infrastructure Surtax ordinance, the governing authority shall hold a public hearing to take public testimony on the adoption of the surtax and to explain the need for the surtax and to describe the projects to be funded by the surtax. At least 7 days prior to the public hearing, the governing authority shall advertise in a newspaper of general paid circulation in the county its intent to consider adoption of the surtax and the time and location of the public hearing. The advertisement shall be of the form:

#### NOTICE OF SALES TAX INCREASE

The (. . . name of taxing authority. . . ) will soon consider a measure to increase the sales tax rate by one-half percent in (. . . name of county. . . ) county for a period of (. . . number of years. . . ) years for the purpose of funding infrastructure projects. All concerned citizens are invited to a public hearing on the tax increase to be held on (. . . date and time. . . ) at (. . . meeting place. . . ). A decision on the proposed tax increase will be made on (. . . date and time. . . ) at (. . . meeting place. . . ).

(d)(e) Pursuant to s. 212.054(4), the proceeds of the surtax levied under this subsection shall be distributed to the county and the municipalities within such county in which the surtax was collected, according to:

1. An interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal county population; or

2. If there is no interlocal agreement, according to the formula provided in s. 218.62.

(d) ~~The provisions of s. 212.054(3)(b)1. relating to the sales amount above \$1,000 on any item of tangible personal property shall not apply to the surtax authorized by this subsection. The sales amount above \$5,000 on any item of tangible personal property shall not be subject to the surtax imposed by this subsection.~~

(e) The department shall promulgate by rule the brackets applicable to transactions which are subject to the surtax.

(f)1. The proceeds of the surtax authorized by this subsection and any interest accrued thereto shall be expended within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, purchase, and construct and provide public facilities as outlined in s. 163.3164(23) or a criminal justice or public safety facility or as enumerated in the capital improvements element required by s. 163.3177. ~~infrastructure. Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure.~~

2. ~~For the purposes of this paragraph "infrastructure" means any fixed capital expenditure or fixed capital costs associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years and any land acquisition, land improvement, design and engineering costs related thereto.~~

(g) Counties and municipalities receiving proceeds under the provisions of this subsection may pledge such proceeds for the purpose of servicing new bond indebtedness incurred pursuant to law. Local governments may use the services of the Division of Bond Finance of the Department of General Services pursuant to the State Bond Act to issue any bonds through the provisions of this subsection. In no case may a jurisdiction issue bonds pursuant to this subsection more frequently than once per year. Counties and municipalities may join together for the issuance of bonds authorized by this subsection. Counties, as defined in s. 125.011(1), may, in addition, use the proceeds to retire or service indebtedness incurred for bonds issued prior to July 1, 1987 for infrastructure purposes.

(h) Counties and municipalities shall not use the surtax proceeds to supplant or replace user fees or to reduce ad valorem taxes existing prior to the levy of the surtax authorized by this subsection.

(i) No ordinance enacting the levying of such surtax shall be adopted after November 30, 1992. No referendum proposing the levying of such surtax shall be held after November 30, 1992.

(j) Notwithstanding the provisions of s. 212.054(5), the surtax shall take effect on the first day of a month as fixed by the ordinance adopted pursuant to paragraph (3)(a); however, the surtax shall not take effect until at least 60 days following the adoption of the ordinance or the electors' approval whichever is applicable.

Section 10. Subsection (3) and paragraph (c) of subsection (11) of section 212.08, Florida Statutes, as amended by sections 14 and 25 of chapter 87-6, section 4 of chapter 87-72, section 4 of chapter 87-99, section 13 of chapter 87-101, and section 2 of chapter 87-370, Laws of Florida, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by part I of this chapter.

(3) EXEMPTIONS, PARTIAL; CERTAIN FARM EQUIPMENT.—There shall be taxable at the rate of 3 percent the sale, use, consumption, or storage for use in this state of self-propelled or power-drawn farm equipment used exclusively by a farmer on a farm owned, leased, or sharecropped by him in plowing, planting, cultivating, or harvesting crops. The rental of self-propelled or power-drawn farm equipment shall be taxed at the rate of 5.5 percent.

(i) There shall be exempt from the tax imposed by this part all charges for aircraft modification services, including parts and equipment furnished or installed in connection therewith, performed under authority of a supplemental type certificate issued by the Federal Aviation Administration.

#### (11) PARTIAL EXEMPTION; FLYABLE AIRCRAFT.—

(c) The maximum tax collectible under this subsection may not exceed 5.5 percent of the sales price of such aircraft. No Florida tax may be imposed on the sale of such aircraft if the state in which the aircraft will be domiciled does not allow Florida sales or use tax to be credited against its sales or use tax. Furthermore, no tax may be imposed on the sale of such aircraft if the state in which the aircraft will be domiciled has enacted a sales and use tax exemption for flyable aircraft or if the aircraft will be domiciled outside the United States.

Section 11. Subsections (9) and (10) of section 212.12, Florida Statutes, as amended by section 17 of chapter 87-6, section 6 of chapter 87-99, section 16 of chapter 87-101, and section 8 of chapter 87-402, Laws of Florida, are amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(9) Taxes imposed by this chapter upon the privilege of the use, consumption, storage for consumption, or sale of tangible personal property, admissions, license fees, rentals, and communication services, and upon the sale or use of services as herein taxed shall be collected upon the basis of an addition of the tax imposed by this chapter to the total price of such admissions, license fees, rentals, communication or other services, or sale price of such article or articles that are purchased, sold, or leased at any one time by or to a customer or buyer; and the dealer, or person charged herein, is required to pay a privilege tax in the amount of the tax imposed by this chapter on the total of his gross sales of tangible personal property, admissions, license fees, rentals, and communication services or to collect a tax upon the sale or use of services, and such person or dealer shall add the tax imposed by this chapter to the price, license fee, rental, or admissions, and communication or other services and collect the total sum from the purchaser, admittee, licensee, lessee, or consumer. Notwithstanding the rate of taxes imposed upon the privilege of sales, admissions, license fees, rentals, and communication services, or upon the sale or use of services, the following brackets shall be applicable to all transactions taxable at the rate of 5.5 5 percent:

- (a) On single sales of less than 10 cents, no tax shall be added.
- (b) On single sales in amounts from 10 cents to 18 20 cents, both inclusive, 1 cent shall be added for taxes.
- (c) On sales in amounts from 19 24 cents to 36 40 cents, both inclusive, 2 cents shall be added for taxes.
- (d) On sales in amounts from 37 44 cents to 54 60 cents, both inclusive, 3 cents shall be added for taxes.
- (e) On sales in amounts from 55 64 cents to 72 80 cents, both inclusive, 4 cents shall be added for taxes.
- (f) On sales in amounts from 73 84 cents to 90 cents \$1, both inclusive, 5 cents shall be added for taxes.
- (g) On sales in amounts from 91 cents to \$1.09, both inclusive, 6 cents shall be added for taxes.
- (h) On sales in amounts from \$1.09 to \$1.27, both inclusive, 7 cents shall be added for taxes.
- (i) On sales in amounts from \$1.28 to \$1.45, both inclusive, 8 cents shall be added for taxes.
- (j) On sales in amounts from \$1.46 to \$1.63, both inclusive, 9 cents shall be added for taxes.
- (k) On sales in amounts from \$1.64 to \$1.81, both inclusive, 10 cents shall be added for taxes.
- (l) On sales in amounts from \$1.82 to \$2, both inclusive, 11 cents shall be added for taxes.
- (m)(g) On sales in amounts of more than \$2 \$1, 5.5 5 percent shall be charged upon each two dollars dollar of price, plus the appropriate bracket charge upon any fractional part of two dollars a dollar.

(10) In charter counties which have adopted the discretionary 1-percent tax, the department shall promulgate by rule the brackets applicable to following brackets shall be applicable to all taxable transactions which would otherwise have been transactions taxable at the rate of 5.5 5 percent.:

- (a) On single sales of less than 10 cents, no tax shall be added.
- (b) On single sales in amounts from 10 cents to 16 cents, both inclusive, 1 cent shall be added for taxes.
- (c) On sales in amounts from 17 cents to 33 cents, both inclusive, 2 cents shall be added for taxes.
- (d) On sales in amounts from 34 cents to 50 cents, both inclusive, 3 cents shall be added for taxes.

(e) On sales in amounts from 51 cents to 66 cents, both inclusive, 4 cents shall be added for taxes.

(f) On sales in amounts from 67 cents to 83 cents, both inclusive, 5 cents shall be added for taxes.

(g) On sales in amounts from 84 cents to \$1, both inclusive, 6 cents shall be added for taxes.

(h) On sales in amounts from \$1 up to, and including, the first \$1,000 in price, 6 percent shall be charged upon each dollar of price, plus the appropriate bracket charge upon any fractional part of a dollar.

(i) On sales in amounts of more than \$1,000 in price, 6 percent shall be added upon the first \$1,000 in price, and 5 percent shall be added upon each dollar of price in excess of the first \$1,000 in price, plus the bracket charges upon any fractional part of a dollar as provided for in subsection (9).

Section 12. Effective upon becoming a law, subsection (1) of section 212.12, Florida Statutes, as amended by section 17 of chapter 87-6 and section 16 of chapter 87-101, Laws of Florida, is amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(1) Notwithstanding any other provision of law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, owner and remitter (except dealers who make mail order sales) shall be allowed 3 percent of the amount of the tax due and accounted for and remitted to the department, in the form of a deduction in submitting his report and paying the amount due by him; and the department shall allow such deduction of 3 percent of the amount of the tax to the person paying the same for remitting the tax in the manner herein provided, for paying the amount due to be paid by him, and as further compensation to dealers in tangible personal property for the keeping of prescribed records and for collection of taxes and remitting the same. However, if the amount of the tax due and remitted to the department for the reporting period exceeds \$1,000, the 3-percent allowance shall be reduced to 1 percent for all amounts in excess of \$1,000. The executive director of the department is authorized to negotiate a collection allowance, pursuant to rules promulgated by the department, with a dealer who makes mail order sales. The rules of the department shall provide guidelines for establishing the collection allowance based upon the dealer's estimated costs of collecting the tax, the volume and value of the dealer's mail order sales to purchasers in this state, and the administrative and legal costs and likelihood of achieving collection of the tax absent the cooperation of the dealer. However, in no event shall the collection allowance negotiated by the executive director exceed 10 percent of the tax remitted for a reporting period.

(a) The collection allowance may not be granted, nor may any deduction be permitted, if the tax is delinquent at the time of payment.

(b) The Department of Revenue may reduce the collection allowance by 10 percent or \$50, whichever is less, if a taxpayer files an incomplete return.

1. An "incomplete return" is, for purposes of this chapter, a return which is lacking such uniformity, completeness, and arrangement that the physical handling, verification, or review of the return may not be readily accomplished.

2. The department shall adopt rules requiring such information as it may deem necessary to ensure that the tax levied hereunder is properly collected, reviewed, compiled, and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of taxable purchases; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer's collection allowance; the amount of penalty and interest; the amount due with the return; and such other information as the Department of Revenue may specify. The department shall require that the



~~amounts of gross sales, taxable sales, taxable purchases, and tax collected or due shall be reported by major sales tax source: services; tangible personal property; admissions; transient rentals; commercial leases or licenses; and agricultural equipment.~~

Section 13. Section 218.61, Florida Statutes, is amended to read:

218.61 Local government half-cent sales tax; designated proceeds; trust fund.—

(1) Each participating county or municipal government shall receive a portion of the local government half-cent sales tax, as provided in this part.

(2) Notwithstanding the provisions of s. 212.20(1), ~~8.857~~ ~~9.697~~ percent of the proceeds remitted pursuant to part I of chapter 212 by a sales tax dealer located within the county shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund and earmarked for distribution to the governing body of that county and of each municipality within that county; *however, in fiscal year 1987-1988 the distribution into the trust fund shall be such that for the fiscal year as a whole the total transfer shall equal 9.378 percent of the proceeds remitted.* Such moneys shall be known as the "local government half-cent sales tax." "Proceeds" means all funds collected and received by the Department of Revenue, including any interest or penalties.

(3) There is created in the State Treasury the Local Government Half-cent Sales Tax Clearing Trust Fund. Moneys in the fund are hereby appropriated to the Department of Revenue and shall be distributed monthly to participating units of local government.

Section 14. Effective January 1, 1988, section 212.0598, Florida Statutes, as created by chapter 87-101, Laws of Florida, is amended to read:

212.0598 Special provisions; air carriers.—

(1) Notwithstanding other provisions of this part to the contrary, any air carrier *utilizing mileage apportionment for corporate income tax purposes in this state required by the United States Department of Transportation to keep records according to said department's standard classification of accounting* may elect, upon the conditions prescribed in subsection (3), *to attribute to this state pursuant to s. 212.0591(9)(b)4. use or consumption of tangible personal property it purchases or uses.* (4), *to be subject to the tax imposed by this part on services and tangible personal property according to the provisions of this section.*

(2) ~~The basis of the tax shall be the ratio of Florida mileage to total mileage as determined pursuant to part IV of chapter 214. The ratio shall be determined at the close of the carrier's preceding fiscal year. The ratio shall be applied each month to the carrier's total systemwide gross purchases of tangible personal property and services otherwise taxable in Florida.~~

(2)(3) It is the legislative intent that air carriers are hereby determined to be susceptible to a distinct and separate classification for taxation under the provisions of this part, if the provisions of this section are met.

(3)(4) The election provided for in this section shall not be allowed unless the purchaser makes a written request, in a manner prescribed by the Department of Revenue, to be taxed under the provisions of subsection (1)(2), and such person registers with the Department of Revenue as a dealer and extends to his vendor at the time of purchase, if required to do so, a certificate stating that the item or items to be partially exempted are for the exclusive use designated herein. ~~Otherwise, all purchases of taxable property and services purchased in this state shall be subject to taxation.~~

(4)(5) Notwithstanding other provisions of this part to the contrary, any air carrier eligible for the election provided in subsection (1) which does not so elect shall be subject to the tax imposed by this part on the purchase or use of tangible personal property purchased or used in this state, as well as other taxes imposed herein.

Section 15. Section 212.02, Florida Statutes, 1986 Supplement, as amended by chapters 87-6, 87-101, and 87-402, Laws of Florida, is amended to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) The term "admissions" means and includes the net sum of money after deduction of any federal taxes for admitting a person or vehicle or persons to any place of amusement, sport, or recreation or for the privilege of entering or staying in any place of amusement, sport, or recreation, including, but not limited to, theaters, outdoor theaters, shows, exhibitions, games, races, or any place where charge is made by way of sale of tickets, gate charges, seat charges, box charges, season pass charges, cover charges, greens fees, participation fees, entrance fees, or other fees or receipts of anything of value measured on an admission or entrance or length of stay or seat box accommodations in any place where there is any exhibition, amusement, sport, or recreation, and all dues paid to private clubs providing recreational facilities, including but not limited to golf, tennis, swimming, yachting, and boating facilities.

(2) ~~"Affiliated group" means: an affiliated group of corporations, as defined in s. 1504(a) of the Internal Revenue Code, whose members are includable under s. 1504(b), (c), or (d) of the Internal Revenue Code, and are eligible to file a consolidated tax return for Federal corporate income tax purposes, or mutual insurance companies which are members of one insurance holding company system subject to s. 628.801; however, s. 1504(b)(2) shall not apply to this definition. However, the taxpayer may elect, pursuant to rules of the department governing the procedure for making and amending such election, to define its affiliated group in a manner which excludes any member who has no tax nexus in this state and any member whose business activities are unrelated to the business activities of other members of the group. However, in no event shall a parent corporation of an included member be excluded from the affiliated group.~~

(2)(3) "Business" means any activity engaged in by any person, or caused to be engaged in by him, with the object of private or public gain, benefit, or advantage, either direct or indirect. Except for the sales of any aircraft, boat, mobile home, or motor vehicle, the term "business" shall not be construed in this chapter to include occasional or isolated sales or transactions involving tangible personal property ~~or services~~ by a person who does not hold himself out as engaged in business, but includes other charges for the sale or rental of tangible personal property, ~~sales of services taxable under this part,~~ sales of or charges of admission, communication services, all rentals and leases of living quarters, other than low-rent housing operated under chapter 421, sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, and all rentals of or licenses in real property, other than low-rent housing operated under chapter 421, all leases or rentals of or licenses in parking lots or garages for motor vehicles, docking or storage spaces for boats in boat docks or marinas as defined in this chapter and made subject to a tax imposed by this chapter. Any tax on such sales, charges, rentals, admissions, or other transactions made subject to the tax imposed by this chapter shall be collected by the state, county, municipality, any political subdivision, agency, bureau, or department, or other state or local governmental instrumentality in the same manner as other dealers, unless specifically exempted by this chapter.

(3)(4) The terms "cigarettes," "tobacco," or "tobacco products" referred to in this chapter include all such products as are defined or may be hereafter defined by the laws of the state.

(4)(5) "Cost price" means the actual cost of articles of tangible personal property ~~or services~~ without any deductions ~~therefrom on account of the cost of materials used, labor or service costs, transportation charges, or any expenses whatsoever.~~

(6) ~~"Costs of performance" means direct costs determined in a manner consistent with generally accepted accounting principles and in accordance with accepted conditions or practices in the type of trade or business in which the service provider engages.~~

(5)(7) The term "department" means the Department of Revenue.

(8) ~~"Employee" means any person who is not an independent contractor and whose wages or remuneration are subject to tax under the Federal Insurance Contributions Act or under the Federal Unemployment Tax Act, or whose wages or remuneration are subject to withholding for federal income tax purposes.~~

(9) ~~"Employer" means any person who must pay taxes on wages under the Federal Insurance Contributions Act or under the Federal Unemployment Tax Act, or who must withhold taxes from wages for federal income tax purposes.~~

(6)(10) "Enterprise zone" means an area of the state authorized to be an enterprise zone pursuant to s. 290.0055 and approved by the secretary of the Department of Community Affairs pursuant to s. 290.0065. This subsection shall expire and be void on December 31, 1994.

(7)(11) "Factory-built building" means a structure manufactured in a manufacturing facility for installation or erection as a finished building; "factory-built building" includes, but is not limited to, residential, commercial, institutional, storage, and industrial structures.

(8)(12) "In this state" or "in the state" means within the state boundaries of Florida as defined in s. 1, Art. II of the Constitution of the State of Florida and includes all territory within these limits owned by or ceded to the United States.

(9)(13) The term "intoxicating beverages" or "alcoholic beverages" referred to in this chapter includes all such beverages as are so defined or may be hereafter defined by the laws of the state.

(10)(14) "Lease," "let," or "rental" means leasing or renting of living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps and real property, the same being defined as follows:

(a) Every building or other structure kept, used, maintained, or advertised as, or held out to the public to be, a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants, in which 10 or more rooms are furnished for the accommodation of such guests, and having one or more dining rooms or cafes where meals or lunches are served to such transient or permanent guests, such sleeping accommodations and dining rooms or cafes being conducted in the same building or buildings in connection therewith, shall, for the purpose of this chapter, be deemed a hotel.

(b) Any building, or part thereof, where separate accommodations for two or more families living independently of each other are supplied to transient or permanent guests or tenants shall for the purpose of this chapter be deemed an apartment house.

(c) Every house, boat, vehicle, motor court, trailer court, or other structure or any place or location kept, used, maintained, or advertised as, or held out to the public to be, a place where living quarters or sleeping or housekeeping accommodations are supplied for pay to transient or permanent guests or tenants, whether in one or adjoining buildings, shall for the purpose of this chapter be deemed a roominghouse.

(d) In all hotels, apartment houses, and roominghouses within the meaning of this chapter, the parlor, dining room, sleeping porches, kitchen, office, and sample rooms shall be construed to mean "rooms."

(e) A "tourist camp" is a place where two or more tents, tent houses, or camp cottages are located and offered by a person or municipality for sleeping or eating accommodations, most generally to the transient public for either a direct money consideration or an indirect benefit to the lessor or owner in connection with a related business.

(f) A "trailer camp," "mobile home park," or "recreational vehicle park" is a place where space is offered, with or without service facilities, by any persons or municipality to the public for the parking and accommodation of two or more automobile trailers, mobile homes, or recreational vehicles which are used for lodging, for either a direct money consideration or an indirect benefit to the lessor or owner in connection with a related business, such space being hereby defined as living quarters, and the rental price thereof shall include all service charges paid to the lessor.

(g) "Lease," "let," or "rental" also means the leasing or rental of tangible personal property and the possession or use thereof by the lessee or rentee for a consideration, without transfer of the title of such property, except as expressly provided to the contrary herein. The term "lease," "let," "rental" or "service" does not mean hourly, daily, or mileage charges, to the extent that such charges are subject to the jurisdiction of the United States Interstate Commerce Commission, when such charges are paid by reason of the presence of railroad cars owned by another on the tracks of the taxpayer, or charges made pursuant to car service agreements. *However, where two taxpayers, in connection with the interchange of facilities, rent or lease property, each to the other, for use in providing or furnishing any of the services mentioned in s. 166.231, the term "lease or rental" means only the net amount of rental involved.*

(h) "Real property" means land, improvements thereto, and fixtures, and is synonymous with "realty" and "real estate."

(i) "License," as used in this chapter with reference to the use of real property, means the granting of a privilege to use or occupy a building or a parcel of real property for any purpose.

(11)(16) "Motor fuel" means and includes what is commonly known and sold as gasoline and fuels containing a mixture of gasoline and other products.

(12)(16) "Nurseryman" or "grower" means any person engaged in the production of nursery stock or horticultural plants.

(13)(17) "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit and includes any political subdivision, municipality, state agency, bureau, or department and the plural as well as the singular number.

(14)(18) "Retailer" means and includes every person engaged in the business of making sales at retail, or for distribution, or use, or consumption, or storage to be used or consumed in this state.

(15)(19)(a) "Retail sale" or a "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale in the form of tangible personal property or services, and includes all such transactions that may be made in lieu of retail sales or sales at retail. ~~"Retail sale" does not include fee-sharing for services described in s. 475.011 by persons licensed under chapter 475. A sale of a service shall be considered a sale for resale only if:~~

1. ~~The purchaser of the service does not use or consume the service but acts as a broker or intermediary in procuring a service for his client or customer;~~

2. ~~The purchaser of the service buys the service pursuant to a written contract with the seller and such contract identifies the client or customer for whom the purchaser is buying the service;~~

3. ~~The purchaser of the service separately states the value of the service purchased at the purchase price in his charge for the service on its subsequent sale;~~

4. ~~The service, with its value separately stated, will be taxed under this part in a subsequent sale, unless otherwise exempt pursuant to s. 212.0592(1); and~~

5. ~~The service is purchased pursuant to a service resale permit by a dealer who is primarily engaged in the business of selling services. The department shall provide by rule for the issuance and periodic renewal every 5 years of such resale permits.~~

*However, a sale, to other than an end user, of telecommunication services consisting of a right of access for which an access charge, as defined in s. 203.012(1), is imposed, is a sale for resale.*

(b) The terms "retail sales," "sales at retail," "use," "storage," and "consumption" include the sale, use, storage, or consumption of all tangible advertising materials imported or caused to be imported into this state. Tangible advertising material includes displays, display containers, brochures, catalogs, pricelists, point-of-sale advertising, and technical manuals or any tangible personal property which does not accompany the product to the ultimate consumer.

(c) "Retail sales," "sale at retail," "use," "storage," and "consumption" do not include materials, containers, labels, sacks, or bags intended to be used one time only for packaging tangible personal property for sale ~~or for packaging in the process of providing a service taxable under this part~~ and do not include the sale, use, storage, or consumption of industrial materials, including chemicals and fuels except as provided herein, for future processing, manufacture, or conversion into articles of tangible personal property for resale when such industrial materials, including chemicals and fuels except as provided herein, become a component or ingredient of the finished product. However, said terms include the sale, use, storage, or consumption of tangible personal property, including machinery and equipment or parts thereof, purchased electricity, and fuels used to power machinery, when said items are used and dissipated in fabricating, converting, or processing tangible personal property for sale, even though they may become ingredients or components of the tangible personal property for sale through accident, wear, tear, erosion, corrosion, or similar means.

(d) "Gross sales" means the sum total of all sales of tangible personal property ~~or services~~ as defined herein, without any deduction whatsoever of any kind or character, except as provided in this chapter.

(e) The term "retail sale" includes a mail order sale, as defined in s. 212.0596(1).

(16)(20) "Sale" means and includes:

(a) Any transfer of title or possession, or both, exchange, barter, license, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration.

(b) The rental of living quarters or sleeping or housekeeping accommodations in hotels, apartment houses or roominghouses, or tourist or trailer camps, as hereinafter defined in this chapter.

(c) The producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(d) The furnishing, preparing, or serving for a consideration of any tangible personal property for consumption on or off the premises of the person furnishing, preparing, or serving such tangible personal property which includes the sale of meals or prepared food by an employer to his employees.

(e) A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price.

~~(f) Any transfer, provision, or rendering of services for a consideration.~~

(17)(21) "Sales price" means the total amount paid for tangible personal property ~~or services~~, including any services that are a part of the sale ~~and any tangible personal property that is part of the service~~, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost, interest charged, losses, or any other expense whatsoever. "Sales price" also includes the consideration for a transaction which requires *both* labor *and* ~~or~~ material to alter, remodel, maintain, adjust, or repair tangible personal property. Trade-ins or discounts allowed and taken at the time of sale shall not be included within the purview of this subsection.

~~(22) The term "service" or "services" as used in this part means those activities usually provided for consideration by the following establishments listed in the SIC Manual:~~

- ~~(a) Agricultural Services (Major Group Number 07).~~
- ~~(b) Forestry Services (Major Group Number 085).~~
- ~~(c) Metal Mining Services (Group Number 108).~~
- ~~(d) Oil and Gas Field Services (Group Number 138).~~
- ~~(e) Nonmetallic (Nonfuel) Mineral Services (Group Number 148).~~
- ~~(f) Building Construction General Contractors and Operative Builders (Major Group Number 15).~~
- ~~(g) Construction other than Building Construction General Contractors (Major Group Number 16).~~
- ~~(h) Construction Special Trade Contractors (Major Group Number 17).~~
- ~~(i) Printing, Publishing, and Allied Services (Major Group Number 27).~~
- ~~(j) Coating, Engraving, and Allied Services (Group Number 347).~~
- ~~(k) Railroad Transportation (Major Group Number 40).~~
- ~~(l) Local and Suburban Transit and Interurban Highway Passenger Transportation (Major Group Number 41).~~
- ~~(m) Motor Freight Transportation and Warehousing (Major Group Number 42).~~
- ~~(n) U.S. Postal Service (Major Group Number 43).~~
- ~~(o) Water Transportation (Major Group Number 44).~~

~~(p) Transportation by Air (Major Group Number 45).~~

~~(q) Pipelines, except Natural Gas (Major Group Number 46).~~

~~(r) Transportation Services (Major Group Number 47).~~

~~(s) Communications (Major Group Number 48).~~

~~(t) Electric, Gas, and Sanitary Services (Major Group Number 49).~~

~~(u) Food Brokers (Industry Number 5141).~~

~~(v) Banking (Major Group Number 60).~~

~~(w) Credit Agencies other than Banks (Major Group Number 61).~~

~~(x) Security and Commodity Brokers, Dealers, Exchanges, and Services (Major Group Number 62).~~

~~(y) Insurance (Major Group Number 63).~~

~~(z) Insurance Agents, Brokers, and Service (Major Group Number 64).~~

~~(aa) Real Estate (Major Group Number 65).~~

~~(bb) Combinations of Real Estate, Insurance, Loans, Law Offices (Major Group Number 66).~~

~~(cc) Holding and other Investment Offices (Major Group Number 67).~~

~~(dd) Personal Services (Major Group Number 72).~~

~~(ee) Business Services (Major Group Number 73).~~

~~(ff) Automotive Repair, Services, and Garages (Major Group Number 75).~~

~~(gg) Miscellaneous Repair Services (Major Group Number 76).~~

~~(hh) Motion Pictures (Major Group Number 78).~~

~~(ii) Amusement and Recreation Services, except Motion Pictures (Major Group Number 79).~~

~~(jj) Health Services (Major Group Number 80).~~

~~(kk) Legal Services (Major Group Number 81).~~

~~(ll) Educational Services (Major Group Number 82).~~

~~(mm) Social Services (Major Group Number 83).~~

~~(nn) Museums, Art Galleries, Botanical and Zoological Gardens (Major Group Number 84).~~

~~(oo) Membership Organizations (Major Group Number 86).~~

~~(pp) Miscellaneous Services (Major Group Number 89).~~

~~(qq) Legislative, Judicial, Administrative and Regulatory Activities of Federal, State, Local and International Governments (Major Group Numbers 91, 92, 93, 94, 95, 96, and 97).~~

~~In addition, the terms shall include the services of any independent broker of tangible personal property.~~

(18)(23) "Special fuel" means any liquid product, gas product, or combination thereof used in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance. This term includes, but is not limited to, all forms of fuel commonly or commercially known or sold as diesel fuel or kerosene. However, the term "special fuel" does not include butane gas, propane gas, or any other form of liquefied petroleum gas or compressed natural gas.

(24) "SIC" means those classifications contained in the Standard Industrial Classification Manual, 1972, as published by the Office of Management and Budget, Executive Office of the President, and as amended in the 1977 Supplement.

(19)(25) "Storage" means and includes any keeping or retention in this state of tangible personal property for use or consumption in this state or for any purpose other than sale at retail in the regular course of business.

(20)(26) "Tangible personal property" means and includes personal property which may be seen, weighed, measured, or touched or is in any

manner perceptible to the senses, including electric power or energy, boats, motor vehicles and mobile homes as defined in s. 320.01(1) and (2), aircraft as defined in s. 330.27, and all other types of vehicles. The term "tangible personal property" does not include stocks, bonds, notes, insurance, or other obligations or securities; intangibles as defined by the intangible tax law of the state; pari-mutuel tickets sold or issued under the racing laws of the state; ~~or factory-built buildings during construction or thereafter.~~

(21)(27) "Use" means and includes the exercise of any right or power over tangible personal property incident to the ownership thereof, or interest therein, except that it does not include the sale at retail of that property in the regular course of business. ~~"Use" also means the consumption or enjoyment of the benefit of services.~~

(22)(28) The term "use tax" referred to in this chapter includes the use, the consumption, the distribution, and the storage as herein defined ~~of tangible personal property or services.~~

Section 16. Paragraph (a) of subsection (1) of section 212.031, Florida Statutes, 1986 Supplement, as amended by chapters 87-6 and 87-101, Laws of Florida, is amended to read:

212.031 Lease or rental of or license in real property.—

(1)(a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any real property unless such property is:

1. Assessed as agricultural property under s. 193.461.
2. Used exclusively as dwelling units.
3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).
4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association shall be fully taxable under this chapter.
5. A public or private street or right-of-way occupied or used by a utility for utility purposes.
6. A public street or road which is used for transportation purposes.
7. Property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft.
8. Property used at a port authority as defined in s. 315.02(2) exclusively for the purpose of oceangoing vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels.
9. Property used as an integral part of the *production of motion pictures on film or videotape performance of qualified production services as defined in s. 212.0592(18)(a).*
10. Leased, subleased, or rented to a person providing food and drink concessionaire services within the premises of a movie theater, a business operated under a permit issued pursuant to chapter 550 or chapter 551, or any publicly owned arena, sports stadium, convention hall, exhibition hall, auditorium, or recreational facility. A person providing retail concessionaire services involving the sale of food and drink or other tangible personal property within the premises of an airport shall be subject to tax on the rental of real property used for that purpose, but shall not be subject to the tax on any license to use the property. For purposes of this subparagraph, the term "sale" shall not include the leasing of tangible personal property.

Section 17. Paragraph (b) of subsection (2) and paragraph (a) of subsection (3) of section 212.054, Florida Statutes, 1986 Supplement, as amended by chapter 87-6, Laws of Florida, is amended, and subsections (7) and (8) are added to said section to read:

212.054 Discretionary sales surtax; limitations, administration, and collection.—

(2)(a) The tax imposed by the governing body of any county authorized to so levy pursuant to s. 212.055 shall be a discretionary surtax on all transactions occurring in the county which are subject to the state tax imposed on sales, use, rentals, admissions, and other transactions by this part. The surtax, if levied, shall be computed as the applicable rate or rates authorized pursuant to s. 212.055 times any amount of tax imposed by and paid to the state pursuant to this part, except this section and s. 212.055, and shall be rounded to the nearest penny.

(b) However:

1. The tax on any sales amount above \$5,000 ~~\$1,000~~ on any item of tangible personal property and on long distance telephone service shall not be subject to the surtax.

2. In the case of utility, telecommunication, or wired television services billed on or after the effective date of any such surtax, the entire amount of the tax for utility, telecommunication, or wired television services shall be subject to the surtax. In the case of utility, telecommunication, or wired television services billed after the last day the surtax is in effect, the entire amount of the tax on said items shall not be subject to the surtax.

3. In the case of written contracts which are signed prior to the effective date of any such surtax for the construction of improvements to real property or for remodeling of existing structures, the surtax shall be paid by the contractor responsible for the performance of the contract. However, the contractor may apply for one refund of any such surtax paid on materials necessary for the completion of the contract. Any application for refund shall be made no later than 15 months following initial imposition of the surtax in that county. The application for refund shall be in the manner prescribed by the department by rule. A complete application shall include proof of the written contract and of payment of the surtax. The application shall contain a sworn statement, signed by the applicant or its representative, attesting to the validity of the application. The department shall, within 30 days after approval of a complete application, certify to the county information necessary for issuance of a refund to the applicant. Counties are hereby authorized to issue refunds for this purpose and shall set aside from the proceeds of the surtax a sum sufficient to pay any refund lawfully due. Any person who fraudulently obtains or attempts to obtain a refund pursuant to this subparagraph, in addition to being liable for repayment of any refund fraudulently obtained plus a mandatory penalty of 100 percent of the refund, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) For the purpose of this section, a transaction shall be deemed to have occurred in a county imposing the surtax when:

(a) The dealer is located in the county and the sale includes tangible personal property ~~or services~~, except as otherwise provided herein; *provided, that the sale of any motor vehicle or mobile home of a class or type which is required to be registered in this state or in any other state shall be deemed to have occurred only in the county identified as the residence address of the purchaser on the registration or title document for such property;*

(b) The event for which an admission is charged is located in the county;

(c) The consumer of utility or wired television services is located in the county, or the telecommunication services are provided to a location within the county;

(d) The user of any aircraft ~~or, boat, motor vehicle, or mobile home~~ of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government imported into the county for use, consumption, distribution, or storage to be used or consumed in the county is located in the county; however, it shall be presumed that such items used outside the county for 6 months or longer before being imported into the county were not purchased for use in the county. The provisions of this paragraph shall not apply to the use or consumption of such items upon which a like tax of equal or greater amount has been lawfully imposed and paid outside the county;

(e) *The purchaser of any motor vehicle or mobile home of a class or type which is required to be registered in this state is a resident of the taxing county as determined by the address appearing on or to be reflected on the registration document for such property;*

(f) Any motor vehicle or mobile home of a class or type which is required to be registered in this state is imported from another state into the taxing county by a user residing therein for the purpose of use, consumption, distribution, or storage in the taxing county; however, it shall be presumed that such items used outside the taxing county for 6 months or longer before being imported into the county were not purchased for use in the county;

(g)(e) The real property which is leased or rented is located in the county;

(h)(f) The transient rental transaction occurs in the county; or

(i)(g) The delivery of any aircraft or, boat, ~~motor vehicle, or mobile home~~ of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government is to a location in the county; however, the provisions of this paragraph shall not apply to the use or consumption of such items upon which a like tax of equal or greater amount has been lawfully imposed and paid outside the county; or

(j)(h) The dealer owing a use tax on purchases or leases is located in the county.

(7) With respect to any motor vehicle or mobile home of a class or type which is required to be registered in this state, the tax due on a transaction occurring in the taxing county as herein provided shall be collected from the purchaser or user incident to the titling and registration of such property, irrespective of whether such titling or registration occurs in the taxing county.

(8) The department shall promulgate by rule the brackets applicable to transactions which are subject to the surtax.

Section 18. Paragraph (b) of subsection (1), paragraphs (g) and (k) of subsection (2), and subsections (4) and (7) of section 212.06, Florida Statutes, 1986 Supplement, as amended by chapters 87-6 and 87-99, Laws of Florida, are amended to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(1)

(b) Except as otherwise provided, any person who manufactures, produces, compounds, processes, or fabricates in any manner tangible personal property for his own use shall pay a tax upon the cost of the product manufactured, produced, compounded, processed, or fabricated without any deduction therefrom on account of the cost of material used, labor or service costs, or transportation charges, notwithstanding the provisions of s. 212.02 defining "cost price." However, the tax levied under this paragraph shall not be imposed upon any person who manufactures or produces electrical power or energy, steam energy, or other energy, when such power or energy is used directly and exclusively in the operation of machinery or equipment that is used to manufacture, process, compound, produce, fabricate, or prepare for shipment tangible personal property for sale or to operate pollution control equipment, maintenance equipment, or monitoring or control equipment used in such operations. The manufacturing or production of electrical power or energy that is used for space heating, lighting, office equipment, or air conditioning or any other nonmanufacturing, nonprocessing, noncompounding, nonproducing, nonfabricating, or nonshipping activity is taxable. Electrical power or energy consumed or dissipated in the transmission or distribution of electrical power or energy for resale is also not taxable. Fabrication labor shall not be taxable when a person is using his own equipment and his own personnel, for his own account, as a producer, subproducer, or coproducer of video tapes or motion pictures ~~a qualified motion picture as defined in s. 212.0592(18)(b)~~ prepared for showing on screens or through television, for either theatrical, commercial, advertising, or educational purposes. *Persons who manufacture factory-built buildings for their own use in the performance of contracts for the construction or improvement of real property shall pay a tax only upon the persons' cost price of items used in the manufacture of such buildings.*

(2)

(g) "Dealer" also means and includes every person who solicits business either by direct representatives, indirect representatives, or manufacturers' agents or by distribution of catalogs or other advertising matter or by any other means whatsoever and by reason thereof receives orders

for tangible personal property ~~or services~~ from consumers for use, consumption, distribution, and storage for use or consumption in the state; and such dealer shall collect the tax imposed by this chapter from the purchaser, and no action either in law or in equity on a sale or transaction as provided by the terms of this chapter may be had in this state by any such dealer unless it is affirmatively shown that the provisions of this chapter have been fully complied with.

(k) ~~"Dealer" also means any person who sells, provides, or performs a service taxable under this part. "Dealer" also means any person who purchases, uses, or consumes a service taxable under this part who cannot prove that the tax levied by this part has been paid to the seller of the taxable service.~~

(4) On all tangible personal property imported or caused to be imported from other states, territories, the District of Columbia, or any foreign country, and used by him, ~~and on all services purchased in other states, territories, the District of Columbia, or any foreign country, and used by him~~, the dealer as herein defined, shall pay the tax imposed by this chapter on all articles of tangible personal property so imported and used, ~~and on all services so purchased and used~~, the same as if such articles ~~or services~~ had been sold at retail for use or consumption in this state. For the purposes of this chapter, the use, or consumption, or distribution, or storage to be used or consumed in this state of tangible personal property shall each be equivalent to a sale at retail; and the tax shall thereupon immediately levy and be collected in the manner provided herein, provided there shall be no duplication of the tax in any event.

(7) The provisions of this chapter do not apply in respect to the use or consumption of tangible personal property ~~or services~~, or distribution or storage of tangible personal property ~~or services~~ for use or consumption in this state, upon which a like tax equal to or greater than the amount imposed by this chapter has been lawfully imposed and paid in another state, territory of the United States, or the District of Columbia. The proof of payment of such tax shall be made according to rules and regulations of the department. If the amount of tax paid in another state, territory of the United States, or the District of Columbia is not equal to or greater than the amount of tax imposed by this chapter, then the dealer shall pay to the department an amount sufficient to make the tax paid in the other state, territory of the United States, or the District of Columbia and in this state equal to the amount imposed by this chapter.

Section 19. (1) Paragraph (a) of subsection (1) and subsections (2), (4), and (9) of section 212.07, Florida Statutes, 1986 Supplement, as amended by section 13 of chapter 87-6, Laws of Florida, are amended to read:

212.07 Sales, storage, use tax; tax added to purchase price; dealer not to absorb; liability of purchasers who cannot prove payment of the tax; penalties; general exemptions.—

(1)(a) The privilege tax herein levied measured by retail sales shall be collected by the dealers from the purchaser or consumer. ~~Except as otherwise specifically provided, the sales and use tax on services herein levied measured by retail sales shall likewise be collected by the dealers from the purchaser or consumer.~~

(2) A dealer shall, as far as practicable, add the amount of the tax imposed under this chapter to the sale price, and the amount of the tax shall be separately stated as Florida tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale. Such tax shall constitute a part of such price, charge, or proof of sale which shall be a debt from the purchaser or consumer to the dealer, until paid, and shall be recoverable at law in the same manner as other debts. Where it is impracticable, due to the nature of the business practices within an industry, to separately state Florida tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale, the department may establish an effective tax rate for such industry. The department may also amend this effective tax rate as the industry's pricing or practices change. ~~Except as otherwise specifically provided~~, Any dealer who neglects, fails, or refuses to collect the tax herein provided upon any, every, and all retail sales made by him or his agents or employees of tangible personal property ~~or services~~ which ~~is~~ are subject to the tax imposed by this chapter shall be liable for and pay the tax himself.

(4) A dealer engaged in any business ~~or in selling any services~~ taxable under this chapter may not advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the purchaser of the payment of all or any part



of the tax, or that the tax will not be added to the selling price of the property ~~or services~~ sold or released or, when added, that it or any part thereof will be refunded either directly or indirectly by any method whatsoever. A person who violates this provision with respect to advertising or refund is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A second or subsequent offense constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(9) Any person who has purchased at retail, used, consumed, distributed, or stored for use or consumption in this state tangible personal property, admissions, communication ~~or other services taxable under this part~~, or leased tangible personal property, or who has leased, occupied, or used or was entitled to use any real property, space or spaces in parking lots or garages for motor vehicles or docking or storage space, or spaces for boats in boat docks or marinas and cannot prove that the tax levied by this chapter has been paid to his vendor, lessor, or other person is directly liable to the state for any tax, interest, or penalty due on any such taxable transactions.

(2) Effective July 1, 1988, subsection (4) of section 212.07, Florida Statutes, 1986 Supplement, as further amended by section 85 of chapter 87-6 and section 53 of chapter 87-101, Laws of Florida, is amended to read:

212.07 Sales, storage, use tax; tax added to purchase price; dealer not to absorb; liability of purchasers who cannot prove payment of the tax; penalties; general exemptions.—

(4) A dealer engaged in any business ~~or in selling any services~~ taxable under this chapter may not advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the purchaser of the payment of all or any part of the tax, or that the tax will not be added to the selling price of the property ~~or services~~ sold or released or, when added, that it or any part thereof will be refunded either directly or indirectly by any method whatsoever. A person who violates this provision with respect to advertising or refund is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A second or subsequent offense constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 20. (1) Paragraph (a) of subsection (2), paragraph (a) of subsection (4), paragraphs (b), (c) and (d) of subsection (5) and paragraphs (e) and (o) of subsection (7) of section 212.08, Florida Statutes, 1986 Supplement, as amended by section 14 of chapter 87-6, chapter 87-72, and section 13 of chapter 87-101, Laws of Florida, are amended, and paragraph (v) is added to subsection (7) of said section, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by part I of this chapter.

## (2) EXEMPTIONS; MEDICAL.—

(a) There shall be exempt from the tax imposed by this chapter any product, supply, or medicine dispensed in a retail establishment by a pharmacist licensed by the state, according to an individual prescription or prescriptions written by a prescriber authorized by law to prescribe medicinal drugs; hypodermic needles; hypodermic syringes; chemical compounds and test kits used for the diagnosis or treatment of human disease, illness, or injury; and common household remedies recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings, but not including cosmetics or toilet articles, notwithstanding the presence of medicinal ingredients therein, according to a list prescribed and approved by the Department of Health and Rehabilitative Services, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue. There shall also be exempt from the tax imposed by this chapter artificial eyes and limbs; orthopedic shoes; prescription eyeglasses and items incidental thereto or which become a part thereof; dentures; hearing aids; crutches; prosthetic and orthopedic appliances; *feminine hygiene products, including, but not limited to, sanitary panties, sanitary belts, sanitary napkins, and tampons*; and funerals. Funeral directors shall pay tax on all tangible personal property used by them in their business.

## (4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES, ETC.—

### (a) Also exempt are:

1. Water (not exempting mineral water or carbonated water).

2. All fuels used by a public or private utility, including any municipal corporation or rural electric cooperative association, in the generation of electric power or energy for sale. Fuel other than motor fuel and special fuel is taxable as provided in this part, with the exception of fuel expressly exempt herein. However, diesel fuel and kerosene used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm are taxable as provided in part II. Motor fuels and special fuels are taxable as provided in part II, with the exception of those motor fuels and special fuels used by railroad locomotives or vessels to transport persons or property in interstate or foreign commerce which are taxable under this part only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier's railroad locomotives or vessels which were used in interstate or foreign commerce and which had at least some Florida mileage during the previous fiscal year of the carrier, such ratio to be determined at the close of the fiscal year of the carrier. This ratio shall be applied each month to the total Florida purchases made in this state of gasoline and other fuels to establish that portion of the total used and consumed in intrastate movement and subject to tax under this part. Fuels used exclusively in intrastate commerce do not qualify for the proration of tax.

3. *The transmission or wheeling of electricity.*

## (5) EXEMPTIONS; ACCOUNT OF USE.—

(b) Machinery and equipment used to increase productive output.—

1. Industrial machinery and equipment purchased for use in new businesses which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations and ~~services directly related to the installation of such machinery and equipment, excluding construction services~~, are exempt from the tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used in a new business in this state. Such purchases must be made prior to the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months of that date.

2. Industrial machinery and equipment purchased for use in expanding manufacturing facilities or plant units which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state ~~and services directly related to the installation of such machinery and equipment, excluding construction services~~, are exempt from any amount of tax imposed by this chapter in excess of \$100,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such expanded business by not less than 10 percent.

3.a. To receive an exemption provided by subparagraph 1. or subparagraph 2., a qualifying business entity shall apply to the department for a temporary tax exemption permit. The application shall state that a new business exemption or expanded business exemption is being sought. Upon a tentative affirmative determination by the department pursuant to subparagraph 1. or subparagraph 2., the department shall issue such permit.

b. The applicant shall be required to maintain all necessary books and records to support the exemption. Upon completion of purchases of qualified machinery, ~~and equipment, or services~~ pursuant to subparagraph 1. or subparagraph 2., the temporary tax permit shall be delivered to the department or returned to the department by certified or registered mail. The department shall have 4 years from the date of delivery or date of receipt to perform an audit of such purchases, notwithstanding the provisions of s. 212.14(6).

c. If, in a subsequent audit conducted by the department, it is determined that the machinery, ~~and equipment, or services~~ purchased as exempt under subparagraph 1. or subparagraph 2. did not meet the criteria mandated by this paragraph or if commencement of production did not occur, the amount of taxes exempted at the time of purchase shall immediately be due and payable to the department by the business entity, together with the appropriate interest and penalty, computed from the date of purchase, in the manner prescribed by this chapter.



d. In the event a qualifying business entity fails to apply for a temporary exemption permit or if the tentative determination by the department required to obtain a temporary exemption permit is negative, a qualifying business entity shall receive the exemption provided in subparagraph 1. or subparagraph 2. through a refund of previously paid taxes. No refund may be made for such taxes unless the criteria mandated by subparagraph 1. or subparagraph 2. have been met and commencement of production has occurred.

4. The department shall promulgate rules governing applications for, issuance of, and the form of temporary tax exemption permits; provisions for recapture of taxes; and the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of increased productive output, commencement of production, and qualification for exemption.

5. The exemptions provided in subparagraphs 1. and 2. do not apply to machinery, ~~or equipment, or services~~ purchased or used by electric utility companies, communications companies, phosphate or other solid minerals severance, mining, or processing operations, oil or gas exploration or production operations, printing or publishing firms, any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business Regulation, or any firm which does not manufacture, process, compound, or produce for sale items of tangible personal property.

6. For the purposes of the exemptions provided in subparagraphs 1. and 2., these terms have the following meanings:

a. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided "industrial machinery and equipment" shall be construed by regulations adopted by the Department of Revenue to mean tangible property used as an integral part of the manufacturing, processing, compounding, or producing for sale of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.

b. "Productive output" means the number of units actually produced by a single plant or operation in a single continuous 12-month period, irrespective of sales. Increases in productive output shall be measured by the output for 12 continuous months immediately following the completion of installation of such machinery or equipment over the output for the 12 continuous months immediately preceding such installation. However, if a different 12-month continuous period of time would more accurately reflect the increase in productive output of machinery and equipment purchased to facilitate an expansion, the increase in productive output may be measured during that 12-month continuous period of time if such time period is mutually agreed upon by the Department of Revenue and the expanding business prior to the commencement of production; but in no case may such time period begin later than 2 years following the completion of installation of the new machinery and equipment. The units used to measure productive output shall be physically comparable between the two periods, irrespective of sales.

(c) Machinery, ~~and equipment, or services~~ used in production of electrical or steam energy.—The purchase of machinery and equipment for use at a fixed location, which equipment and machinery are necessary in the production of electrical or steam energy resulting from the burning of boiler fuels other than residual oil, ~~is and services directly related to the installation of such machinery and equipment, excluding construction services,~~ are exempt from the tax imposed by this chapter. Such electrical or steam energy must be primarily for use in manufacturing, processing, compounding, or producing for sale items of tangible personal property in this state. However, the exemption provided for in this paragraph shall not be allowed unless the purchaser signs an affidavit stating that the item or items to be exempted are for the exclusive use designated herein. Any person furnishing a false affidavit to the vendor for the purpose of evading payment of any tax imposed under chapter 212 shall be subject to the penalty set forth in s. 212.085 and as otherwise provided by law.

(d) Machinery, ~~and equipment, or services~~ used under federal procurement contract.—

1. Industrial machinery and equipment purchased by an expanding business which manufactures tangible personal property pursuant to federal procurement regulations at fixed locations in this state ~~and services directly related to the installation of such machinery and equipment, excluding construction services,~~ are partially exempt from the tax imposed in this chapter on that portion of the tax which is in excess of

\$100,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the implicit productive output of the expanded business by not less than 10 percent. The percentage of increase is measured as deflated implicit productive output for the calendar year during which the installation of the machinery or equipment is completed or during which commencement of production utilizing such items is begun divided by the implicit productive output for the preceding calendar year. In no case may the commencement of production begin later than 2 years following completion of installation of the machinery or equipment.

2. The amount of the exemption allowed shall equal the taxes otherwise imposed by this chapter in excess of \$100,000 per calendar year on qualifying industrial machinery, ~~or equipment, or services~~ reduced by the percentage of gross receipts from cost-reimbursement type contracts attributable to the plant or operation to total gross receipts so attributable, accrued for the year of completion or commencement.

3. The exemption provided by this paragraph shall inure to the taxpayer only through refund of previously paid taxes. Such refund shall be made within 30 days of formal approval by the department of the taxpayer's application, which application may be made on an annual basis following installation of the machinery or equipment.

4. For the purposes of this paragraph, the term:

a. "Cost-reimbursement type contracts" has the same meaning as in 32 C.F.R. s. 3-405.

b. "Deflated implicit productive output" means the product of implicit productive output times the quotient of the national defense implicit price deflator for the preceding calendar year divided by the deflator for the year of completion or commencement.

c. "Eligible costs" means the total direct and indirect costs, as defined in 32 C.F.R. ss. 15-202 and 15-203, excluding general and administrative costs, selling expenses, and profit, defined by the uniform cost-accounting standards adopted by the Cost-Accounting Standards Board created pursuant to 50 U.S.C. s. 2168.

d. "Implicit productive output" means the annual eligible costs attributable to all contracts or subcontracts subject to federal procurement regulations of the single plant or operation at which the machinery or equipment is used.

e. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided such industrial machinery and equipment qualified as an eligible cost under federal procurement regulations and are used as an integral part of the tangible personal property production process. Such term includes parts and accessories only to the extent that the exemption of such parts and accessories is consistent with the provisions of this paragraph.

f. "National defense implicit price deflator" means the national defense implicit price deflator for the gross national product as determined by the Bureau of Economic Analysis of the United States Department of Commerce.

5. The exclusions provided in subparagraph (b)5. apply to this exemption. This exemption applies only to machinery or equipment purchased pursuant to production contracts with the United States Department of Defense and Armed Forces, the National Aeronautics and Space Administration, and other federal agencies for which the contracts are classified for national security reasons. In no event shall the provisions of this paragraph apply to any expanding business the increase in productive output of which could be measured under the provisions of subparagraph (b)6.b. as physically comparable between the two periods.

#### (7) MISCELLANEOUS EXEMPTIONS.—

(e) Film rentals.—Film rentals are exempt when an admission is charged for viewing such film; ~~and charges for services rendered by radio and television stations, including line charges, talent fees, or license fees and charges for films, video tapes, and transcriptions used in producing radio or television broadcasts. , and license fees and direct charges for films, videotapes, and transcriptions used by television or radio stations or networks are exempt. However, this exemption shall not be construed to exempt the sale or use of advertising.~~

(o) Religious, charitable, scientific, educational, and veterans' institutions and organizations.—

1. There are exempt from the tax imposed by part I of this chapter transactions involving:

a. Sales or leases directly to churches or sales or leases of tangible personal property or services by churches;

b. Sales or leases to nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational institutions when used in carrying on their customary nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational activities, including church cemeteries; and

c. Sales or leases to the state headquarters of qualified veterans' organizations and the state headquarters of their auxiliaries when used in carrying on their customary veterans' organization activities. If a qualified veterans' organization or its auxiliary does not maintain a permanent state headquarters, then transactions involving sales or leases to such organization and used to maintain the office of the highest ranking state official are exempt from the tax imposed by this part.

2. The provisions of this section authorizing exemptions from tax shall be strictly defined, limited, and applied in each category as follows:

a. "Religious institutions" means churches, synagogues, and established physical places for worship at which nonprofit religious services and activities are regularly conducted and carried on. The term "religious institutions" includes nonprofit corporations the sole purpose of which is to provide free transportation services to church members, their families, and other church attendees. The term "religious institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of religious organizations or members.

b. "Charitable institutions" means only nonprofit corporations qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code, 1954, as amended, and other nonprofit entities, the sole or primary function of which is to provide, or to raise funds for organizations which provide, one or more of the following services if a reasonable percentage of such service is provided free of charge, or at a substantially reduced cost, to persons, animals, or organizations that are unable to pay for such service:

(I) Medical aid for the relief of disease, injury, or disability;

(II) Regular provision of physical necessities such as food, clothing, or shelter;

(III) Services for the prevention of, or rehabilitation of persons from, alcoholism or drug abuse; the prevention of suicide; or the alleviation of mental, physical, or sensory health problems;

(IV) Social welfare services including adoption placement, child care, community care for the elderly, and other social welfare services which clearly and substantially benefit a client population which is disadvantaged or suffers a hardship;

(V) Medical research for the relief of disease, injury, or disability;

(VI) Legal services; or

(VII) Food, shelter, or medical care for animals or adoption services, cruelty investigations, or education programs concerning animals;

and the term includes groups providing volunteer manpower to organizations designated as charitable institutions hereunder.

c. "Scientific organizations" means scientific organizations which hold current exemptions from federal income tax under s. 501(c)(3) of the Internal Revenue Code and also means organizations the purpose of which is to protect air and water quality or the purpose of which is to protect wildlife and which hold current exemptions from the federal income tax under s. 501(c)(3) of the Internal Revenue Code.

d. "Educational institutions" means state tax-supported or parochial, church and nonprofit private schools, colleges, or universities which conduct regular classes and courses of study required for accreditation by, or membership in, the Southern Association of Colleges and Schools, the Department of Education, the Florida Council of Independent Schools, or the Florida Association of Christian Colleges and Schools, Inc., or which conduct regular classes and courses of study accepted for continu-

ing education credit by the American Medical Association or the American Dental Association. Nonprofit libraries, art galleries, and museums open to the public are defined as educational institutions and are eligible for exemption. The term "educational institutions" includes private nonprofit organizations the purpose of which is to raise funds for schools teaching grades kindergarten through high school, colleges, and universities. The term "educational institutions" includes any nonprofit newspaper of free or paid circulation primarily on university or college campuses which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, and any educational television or radio network or system established pursuant to s. 229.805 or s. 229.8051 and any nonprofit television or radio station which is a part of such network or system and which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The term "educational institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of educational organizations or members.

e. "Veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., and Jewish War Veterans of the U.S.A. and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or s. 501(c)(19) of the Internal Revenue Code.

(v)1. Also exempted are professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made.

2. The above-exempted personal service transactions do not exempt the sale of information services involving the furnishing of printed, mimeographed, or multigraphed matter, or matter duplicating written or printed matter in any other manner, other than professional services and services of employees, agents, or other persons acting in a representative or fiduciary capacity or information services furnished to newspapers and radio and television stations. The term "information services" means and includes the services of collecting, compiling, or analyzing information of any kind or nature and furnishing reports thereof to other persons.

(2) Effective July 1, 1988, paragraph (b) of subsection (5) of section 212.08, Florida Statutes, 1986 Supplement, as further amended by section 59 of chapter 87-6 and section 34 of chapter 87-101, Laws of Florida, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by part I of this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(b) Machinery and equipment used to increase productive output.—

1. Industrial machinery and equipment purchased for use in new businesses which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations and services directly related to the installation of such machinery and equipment, excluding construction services, are exempt from the tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used in a new business in this state. Such purchases must be made prior to the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months of that date.

2. Industrial machinery and equipment purchased for use in expanding manufacturing facilities or plant units which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state and services directly related to the installation of such machinery and equipment, excluding construction services, are exempt from any amount of tax imposed by this chapter in excess of \$100,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such expanded business by not less than 10 percent.

3.a. To receive an exemption provided by subparagraph 1. or subparagraph 2., a qualifying business entity shall apply to the department

for a temporary tax exemption permit. The application shall state that a new business exemption or expanded business exemption is being sought. Upon a tentative affirmative determination by the department pursuant to subparagraph 1. or subparagraph 2., the department shall issue such permit.

b. The applicant shall be required to maintain all necessary books and records to support the exemption. Upon completion of purchases of qualified machinery, *and* equipment, ~~or services~~ pursuant to subparagraph 1. or subparagraph 2., the temporary tax permit shall be delivered to the department or returned to the department by certified or registered mail.

c. If, in a subsequent audit conducted by the department, it is determined that the machinery, *and* equipment, ~~or services~~ purchased as exempt under subparagraph 1. or subparagraph 2. did not meet the criteria mandated by this paragraph or if commencement of production did not occur, the amount of taxes exempted at the time of purchase shall immediately be due and payable to the department by the business entity, together with the appropriate interest and penalty, computed from the date of purchase, in the manner prescribed by this chapter.

d. In the event a qualifying business entity fails to apply for a temporary exemption permit or if the tentative determination by the department required to obtain a temporary exemption permit is negative, a qualifying business entity shall receive the exemption provided in subparagraph 1. or subparagraph 2. through a refund of previously paid taxes. No refund may be made for such taxes unless the criteria mandated by subparagraph 1. or subparagraph 2. have been met and commencement of production has occurred.

4. The department shall promulgate rules governing applications for, issuance of, and the form of temporary tax exemption permits; provisions for recapture of taxes; and the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of increased productive output, commencement of production, and qualification for exemption.

5. The exemptions provided in subparagraphs 1. and 2. do not apply to machinery, *or* equipment, ~~or services~~ purchased or used by electric utility companies, communications companies, phosphate or other solid minerals severance, mining, or processing operations, oil or gas exploration or production operations, printing or publishing firms, any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business Regulation, or any firm which does not manufacture, process, compound, or produce for sale items of tangible personal property.

6. For the purposes of the exemptions provided in subparagraphs 1. and 2., these terms have the following meanings:

a. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided "industrial machinery and equipment" shall be construed by regulations adopted by the Department of Revenue to mean tangible property used as an integral part of the manufacturing, processing, compounding, or producing for sale of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.

b. "Productive output" means the number of units actually produced by a single plant or operation in a single continuous 12-month period, irrespective of sales. Increases in productive output shall be measured by the output for 12 continuous months immediately following the completion of installation of such machinery or equipment over the output for the 12 continuous months immediately preceding such installation. However, if a different 12-month continuous period of time would more accurately reflect the increase in productive output of machinery and equipment purchased to facilitate an expansion, the increase in productive output may be measured during that 12-month continuous period of time if such time period is mutually agreed upon by the Department of Revenue and the expanding business prior to the commencement of production; but in no case may such time period begin later than 2 years following the completion of installation of the new machinery and equipment. The units used to measure productive output shall be physically comparable between the two periods, irrespective of sales.

Section 21. Paragraph (a) of subsection (3), paragraph (c) of subsection (4), and paragraph (a) of subsection (6) of section 212.095, Florida Statutes, as amended by chapters 87-6 and 87-101, Laws of Florida, are amended to read:

212.095 Refunds.—

(3)(a) When a sale is made to a person who claims to be entitled to a refund under this section, the seller shall make out a sales invoice, which shall contain the following information:

1. The name and business address of the purchaser.
2. A description of the item ~~or services~~ sold.
3. The date on which the purchase was made.
4. The price and amount of tax paid for the item ~~or services~~.
5. The name and place of business of the seller at which the sale was made.
6. The refund permit number of the purchaser.

(4)

(c) Refund application forms shall include at a minimum the following information:

1. The name and address of the person claiming the refund.
2. The refund permit number of such person.
3. The location at which the items ~~or services~~ for which a refund is claimed are used.
4. A description of each such item ~~or service~~ and the purpose for which such item ~~or service~~ was acquired.
5. Copies of the sales invoices of items ~~or services~~ for which a refund is being claimed.

(6)(a) Each registered dealer shall, in accordance with the requirements of the department, keep at his principal place of business in this state or at the location where the sale is made a complete record or duplicate sales tickets of all items ~~or services~~ sold by him for which a refund provided in this section may be claimed, which records shall contain the information required in paragraph (3)(a).

Section 22. Paragraph (d) of subsection (1) of section 212.11, Florida Statutes, as created by chapter 87-6, Laws of Florida, and amended by chapter 87-101, Laws of Florida, is hereby repealed.

Section 23. Paragraph (b) of subsection (5) and subsections (7) and (9) of section 212.12, Florida Statutes, 1986 Supplement, as amended by chapters 87-6 and 87-101, Laws of Florida, are amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(5)

(b) In the event any dealer or other person charged herein fails or refuses to make his records available for inspection so that no audit or examination has been made of the books and records of such dealer or person, fails or refuses to register as a dealer, or fails to make a report and pay the tax as provided by this chapter; or makes a grossly incorrect report, or makes a report that is false or fraudulent, then, in such event, it shall be the duty of the department to make an assessment from an estimate based upon the best information then available to it for the taxable period of retail sales of such dealer, the gross proceeds from rentals, the total admissions received, amounts received from leases of tangible personal property by such dealer, or of the cost price of all articles of tangible personal property imported by the dealer for use or consumption or distribution or storage to be used or consumed in this state ~~or of the sales or cost price of all services the sale or use of which is taxable under this part~~, together with interest, plus penalty, if such have accrued, as the case may be. Then the department shall proceed to collect such taxes, interest, and penalty on the basis of such assessment, which shall be considered prima facie correct; and the burden to show the contrary shall rest upon the dealer, seller, owner, or lessor, as the case may be.

(7) In the event the dealer has imported tangible personal property ~~or has acquired services outside the state for sale or use in this state~~ and he fails to produce an invoice showing the cost price of the articles ~~or services~~, as defined in this chapter, which are subject to tax, or the invoice does not reflect the true or actual cost price as defined herein, then the department shall ascertain, in any manner feasible, the true cost price, and assess and collect the tax thereon with interest plus penalties, if such have accrued on the true cost price as assessed by it. The assessment so made shall be considered prima facie correct, and the duty shall be on the dealer to show to the contrary.

(9) Taxes imposed by this chapter upon the privilege of the use, consumption, storage for consumption, or sale of tangible personal property, admissions, license fees, rentals, and communication services, ~~and upon the sale or use of services as herein taxed shall be collected upon the basis of an addition of the tax imposed by this chapter to the total price of such admissions, license fees, rentals, communication or other services, or sale price of such article or articles that are purchased, sold, or leased at any one time by or to a customer or buyer; and the dealer, or person charged herein, is required to pay a privilege tax in the amount of the tax imposed by this chapter on the total of his gross sales of tangible personal property, admissions, license fees, rentals, and communication services or to collect a tax upon the sale or use of services, and such person or dealer shall add the tax imposed by this chapter to the price, license fee, rental, or admissions, and communication or other services and collect the total sum from the purchaser, admittee, licensee, lessee, or consumer. Notwithstanding the rate of taxes imposed upon the privilege of sales, admissions, license fees, rentals, and communication services, or upon the sale or use of services, the following brackets shall be applicable to all transactions taxable at the rate of 5 percent:~~

- (a) On single sales of less than 10 cents, no tax shall be added.
- (b) On single sales in amounts from 10 cents to 20 cents, both inclusive, 1 cent shall be added for taxes.
- (c) On sales in amounts from 21 cents to 40 cents, both inclusive, 2 cents shall be added for taxes.
- (d) On sales in amounts from 41 cents to 60 cents, both inclusive, 3 cents shall be added for taxes.
- (e) On sales in amounts from 61 cents to 80 cents, both inclusive, 4 cents shall be added for taxes.
- (f) On sales in amounts from 81 cents to \$1, both inclusive, 5 cents shall be added for taxes.
- (g) On sales in amounts of more than \$1, 5 percent shall be charged upon each dollar of price, plus the appropriate bracket charge upon any fractional part of a dollar.

Section 24. (1) Subsections (2), (3), and (4) of section 212.13, Florida Statutes, as amended by section 18 of chapter 87-6, Laws of Florida, are amended to read:

212.13 Records required to be kept; power to inspect; audit procedure.—

(2) Each dealer, as defined in this chapter, shall secure, maintain, and keep for a period of 3 years a complete record of tangible personal property ~~or services~~ received, used, sold at retail, distributed or stored, leased or rented by said dealer, together with invoices, bills of lading, gross receipts from such sales, and other pertinent records and papers as may be required by the department for the reasonable administration of this chapter; and all such records which are located or maintained in this state shall be open for inspection by the department at all reasonable hours at such dealer's store, sales office, general office, warehouse, or place of business located in this state. Any dealer who maintains such books and records at a point outside this state must make such books and records available for inspection by the department where the general records are kept. Any dealer subject to the provisions of this chapter who violates these provisions is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) For the purpose of enforcement of this chapter, every manufacturer and seller of tangible personal property ~~or services~~ licensed within this state is required to permit the department to examine his books and records at all reasonable hours; and, upon his refusal, the department may require him to permit such examination by resort to the circuit courts of this state, subject however to the right of removal of the cause to the judicial circuit wherein such person's business is located or wherein such person's books and records are kept, provided further that such person's books and records are kept within the state.

(4) For the further purpose of enforcement of this chapter, every wholesaler of tangible personal property ~~or services~~ licensed within this state is required to permit the department to examine his books and records at all reasonable hours. He must also maintain such books and records for a period of not less than 3 years in order to disclose the sales of all goods ~~or services~~ sold, and to whom sold, and also the amount of items sold, in such form and in such manner as the department may reasonably

require, and so as to permit the department to determine the volume of goods ~~or services~~ sold by wholesalers to dealers, as defined under this chapter, and the dates and amounts of sales made. The department may require any manufacturer or wholesaler who refuses to keep such records or to permit such inspection through the circuit courts of Florida to submit to such inspection, subject however to the right of removal of the cause as hereinbefore provided in this section.

(2) Effective July 1, 1988, subsection (2) of section 212.13, Florida Statutes, as amended by section 89 of chapter 87-6 and section 57 of chapter 87-101, Laws of Florida, is amended to read:

212.13 Records required to be kept; power to inspect; audit procedure.—

(2) Each dealer, as defined in this chapter, shall secure, maintain, and keep for a period of 3 years a complete record of tangible personal property ~~or services~~ received, used, sold at retail, distributed or stored, leased or rented by said dealer, together with invoices, bills of lading, gross receipts from such sales, and other pertinent records and papers as may be required by the department for the reasonable administration of this chapter; and all such records which are located or maintained in this state shall be open for inspection by the department at all reasonable hours at such dealer's store, sales office, general office, warehouse, or place of business located in this state. Any dealer who maintains such books and records at a point outside this state must make such books and records available for inspection by the department where the general records are kept. Any dealer subject to the provisions of this chapter who violates these provisions is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 25. Subsection (1) of section 212.14, Florida Statutes, 1986 Supplement, as amended by chapter 87-6, Laws of Florida, is amended to read:

212.14 Departmental powers; hearings, subpoena; distress warrants; time for assessments.—

(1) Any person required to pay a tax imposed under this chapter, or to make a return, either or both, and who renders a return or makes a payment of a tax with intent to deceive or defraud the state, and to prevent the state from collecting the amount of taxes imposed by this chapter, or otherwise fails to comply with the provisions of this chapter for the taxable period for which any return is made, or any tax is paid, or any report is made to the department, may be required by the department to show cause at a time and place to be set by the department, after 10 days' notice in writing requiring such books, records, or papers as the department may require relating to the business of such person for such tax period, and the department may require such person, or persons, or their employee or employees to give testimony under oath and answer interrogatories by the department, or an assistant, respecting the sale, use, consumption, distribution, or storage rental or license for use of real or personal property ~~or services~~ within the state, or admissions collected therein, or the failure to make a true report thereof, as provided by this chapter, or failure to pay the true amount of the tax required to be paid under this chapter. At said hearing, in the event such person fails to produce such books, records, or papers, or to appear and answer questions within the scope of investigation relating to matters concerning taxes to be imposed under this chapter, or prevents or impedes his or her agents or employees from giving testimony, then the department is authorized under this chapter to estimate any unpaid deficiencies in taxes to be assessed against such person upon such information as may be available to it and to issue a distress warrant for the collection of such taxes, interest, or penalties estimated by him to be due and payable, and such assessment shall be deemed prima facie correct. In such cases said warrant shall be issued to any sheriff in the state where such person owns or possesses any property and such property as may be required to satisfy any such taxes, interest, or penalties shall be by such sheriff seized and sold under said distress warrant in the same manner as property is permitted to be seized and sold under distress warrants issued to secure the payments of delinquent taxes as hereinafter provided, and the department shall also have the right to writ of garnishment to subject any indebtedness due to the delinquent dealer by a third person in any goods, money, chattels, or effects of the delinquent dealer in the hands, possession, or control of the third person in the manner provided by law. Respecting the place for the holding of a hearing by the department or its agents as provided in this section, the person whose tax return or report being investigated may by written request to the department require the hearing be set at a place within the judicial circuit of Florida wherein the person's business is located or within the judicial circuit of Florida wherein such person's books and records are kept.

Section 26. Subsections (3) and (7) of section 212.17, Florida Statutes, 1986 Supplement, as amended by chapter 87-6, Laws of Florida, are amended to read:

212.17 Credits for returned goods, ~~returned payments for services,~~ rentals, or admissions; additional powers of department.—

(3) A dealer who has paid the tax imposed by this chapter on tangible personal property ~~or services~~ may take a credit or obtain a refund for any tax paid by him on the unpaid balance due on worthless accounts within 12 months following the month in which the bad debt has been charged off for federal income tax purposes. If any accounts so charged off for which a credit or refund has been obtained are thereafter in whole or in part paid to the dealer, the amount so paid shall be included in the first return filed after such collection and the tax paid accordingly.

(7) The department, where admissions, license fees, or rental payments ~~or payments for services~~ are made and thereafter returned to the payers after the taxes thereon have been paid, shall return or credit the taxpayer for taxes so paid on the moneys returned in the same manner as is provided for returns or credits of taxes where purchases or tangible personal property are returnable to a dealer.

Section 27. (1) Subsection (3) of section 212.18, Florida Statutes, 1986 Supplement, as amended by section 21 of chapter 87-6 and chapter 87-402, Laws of Florida, is amended to read:

212.18 Administration of law; rules and regulations.—

(3) Every person desiring to engage in or conduct business in this state as a dealer, as defined in this chapter, or to lease, rent, or let or grant licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property, as defined in this chapter, and every person who sells or receives anything of value by way of admissions, shall file with the department an application for a certificate of registration for each place of business, showing the names of the persons who have interests in such business and their residences, the address of the business, and such other data as the department may reasonably require. The application shall be made to the department before the person, firm, copartnership, or corporation may engage in such business; and it shall be accompanied by a registration fee of \$5. However, no registration fee is required to accompany an application to engage in or conduct business to make mail order sales. The department, upon receipt of such application, will grant to the applicant a separate certificate of registration for each place of business, which certificate may be canceled by the department or its designated assistants for any failure by the certificateholder to comply with any of the provisions of this chapter. The certificate shall not be assignable and shall be valid only for the person, firm, copartnership, or corporation to which issued; and such certificate shall be placed in a conspicuous place in the business or businesses for which it is issued and shall be so displayed at all times. No person shall engage in business as a dealer or in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, nor shall any person sell or receive anything of value by way of admissions, without first having obtained such a certificate or after such certificate has been canceled; and no person shall receive any license from any authority within the state to engage in any such business without first having obtained such a certificate or after such certificate has been canceled. The engaging in the business of selling or leasing tangible personal property ~~or services~~ or as a dealer, as defined in this chapter, or the engaging in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, or the engaging in the business of selling or receiving anything of value by way of admissions, without such certificate first being obtained or after such certificate has been canceled by the department is prohibited. The failure or refusal of any person, firm, copartnership, or corporation to so qualify when required hereunder is a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or subject to injunctive proceedings as provided by law.

(2) Effective July 1, 1988, subsection (3) of section 212.18, Florida Statutes, 1986 Supplement, as further amended by section 92 of chapter 87-6 and section 60 of chapter 87-101, Laws of Florida, is amended to read:

212.18 Administration of law; rules and regulations.—

(3) Every person desiring to engage in or conduct business in this state as a dealer, as defined in this chapter, or to lease, rent, or let or grant licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property, as defined in this chapter, and every person who sells or receives anything of value by way of admissions, shall file with the department an application for a certificate of registration for each place of business, showing the names of the persons who have interests in such business and their residences, the address of the business, and such other data as the department may reasonably require. The application shall be made to the department before the person, firm, copartnership, or corporation may engage in such business; and it shall be accompanied by a registration fee of \$5. However, no registration fee is required to accompany an application to engage in or conduct business or make mail order sales. The department, upon receipt of such application, will grant to the applicant a separate certificate of registration for each place of business, which certificate may be canceled by the department or its designated assistants for any failure by the certificateholder to comply with any of the provisions of this chapter. The certificate shall not be assignable and shall be valid only for the person, firm, copartnership, or corporation to which issued; and such certificate shall be placed in a conspicuous place in the business or businesses for which it is issued and shall be so displayed at all times. No person shall engage in business as a dealer or in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, nor shall any person sell or receive anything of value by way of admissions, without first having obtained such a certificate or after such certificate has been canceled; and no person shall receive any license from any authority within the state to engage in any such business without first having obtained such a certificate or after such certificate has been canceled. The engaging in the business of selling or leasing tangible personal property ~~or services~~ or as a dealer, as defined in this chapter, or the engaging in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, or the engaging in the business of selling or receiving anything of value by way of admissions, without such certificate first being obtained or after such certificate has been canceled by the department is prohibited. The failure or refusal of any person, firm, copartnership, or corporation to so qualify when required hereunder is a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or subject to injunctive proceedings as provided by law.

Section 28. Subsection (3) of section 212.21, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

212.21 Declaration of legislative intent.—

(3) It is further declared to be the specific legislative intent to exempt from the tax or taxes or from the operation or the imposition thereof only such sales, admissions, uses, storages, consumption or rentals in relation to or in respect of the things set forth by this chapter as exempted from the tax to the extent that such exemptions are in accordance with the provisions of the constitutions of the state and of the United States. It is further declared to be the specific legislative intent to tax each and every taxable privilege made subject to the tax or taxes, ~~and each and every taxable service made subject to the tax or taxes,~~ except such sales, admissions, uses, storages, consumptions or rentals as are specifically exempted therefrom by this chapter to the extent that such exemptions are in accordance with the provisions of the constitutions of the state and of the United States.

Section 29. Section 212.61, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

212.61 Definitions.—As used in this part, the term:

(1) "Dealer" means any person who holds a valid license as a dealer of special fuel, issued by the department pursuant to s. 206.89, and who:

(a) Imports and sells at wholesale, retail, or otherwise within this state any special fuel;

(b) Imports, or causes to be imported, and withdraws for use within this state by himself or others any special fuel from the tank car, truck, or other original container or package in which it was imported into this state;



(c) Exports special fuel from this state to another state or foreign country;

(d) Manufactures, refines, produces, or compounds any special fuel within this state and sells such fuel at wholesale, retail, or otherwise within this state;

(e) Imports into this state from any other state or foreign country, or receives by any means into this state and keeps in storage in this state for a period of 24 hours or more after the fuel loses interstate character as a shipment in interstate commerce, any special fuel which is intended to be used in this state;

(f) Is primarily liable under the special fuel tax laws of this state for the payment of special fuel taxes;

(g) Purchases or receives in this state special fuel in bulk quantities for resale to service stations, to a user or another dealer, or to the ultimate consumer for nontaxable consumption upon which the tax has not been paid; or

(h) Has both a taxable use and nontaxable consumption of the same special fuel in this state. However, this paragraph does not require that a person be a dealer when his only purchases of special fuel are delivered into reservoirs attached to motor vehicles to fuel internal combustion engines attached to such motor vehicles.

(2) "Refiner," "importer," or "wholesaler" means any person who holds a valid license as a refiner, importer, or wholesaler, as defined in s. 206.01, of motor fuel, issued by the department pursuant to ss. 206.02 and 206.03.

(3) "Retail dealer" means any person who is licensed pursuant to chapter 206 to sell motor fuel or special fuel at retail to the general public at posted retail prices.

The definitions contained in s. 212.02(2), (5), (8), (11), (13), (14), (15), (16), (17), (18), (19), (21), and (22) ~~s. 212.02(3), (7), (12), (15), (17), (18), (19), (20), (21), (23), (25), (27), and (28)~~ apply to the same terms as used in this part.

Section 30. Subsection (1) of section 32 and sections 38, 47, and 109 of chapter 87-6, Laws of Florida, as amended by chapter 87-101, Laws of Florida, are hereby repealed.

Section 31. Section 212.235, Florida Statutes, as created by chapter 87-6, Laws of Florida, and amended by chapter 87-101, Laws of Florida, is amended to read:

#### 212.235 State Infrastructure Trust Fund; deposits.—

(1) Notwithstanding the provisions of ss. 212.20(1) and 218.61, in fiscal year 1987-1988 an amount equal to 2 percent, ~~and in each fiscal year thereafter an amount equal to 5 percent~~, of the proceeds remitted pursuant to this part by a dealer, or the sums sufficient to provide the maximum receipts specified herein, shall be transferred into the State Infrastructure Trust Fund, which is created in the State Treasury. "Proceeds" means all funds collected and received by the Department of Revenue, including any interest and penalties. However, any receipts of the trust fund, including ~~those received pursuant to ss. 201.15(5) and 206.875(3) and interest earned, in excess of \$140 \$200 million in fiscal year 1987-1988, and \$500 million thereafter~~, shall revert to the General Revenue Fund.

(2) Subject to an appropriation each year by the Legislature, moneys in the fund shall only be used for the purposes of:

(a) Acquiring the right-of-way for and constructing state highways and bridges;

(b) Constructing public education capital facilities;

(c) Financing state projects for beach restoration or renourishment or lake, river, or other water body restoration, including the restoration of bays and estuaries;

(d) Constructing state correctional facilities;

(e) Constructing other infrastructure projects; or

(f) Issuing revenue bonds to finance state capital outlay projects authorized by this section. Such bonds shall be payable solely from legislative appropriations from the State Infrastructure Trust Fund and shall not be a debt of the state, and the state shall not be liable thereon. Neither the taxing power, the credit, nor the revenues of the state shall be pledged to pay any obligation issued pursuant to this subsection.

Section 32. Paragraph (d) of subsection (2) of section 215.32, Florida Statutes, as amended by chapter 87-247, Laws of Florida, is amended to read:

#### 215.32 State funds; segregation.—

(2) The source and use of each of these funds shall be as follows:

(d) The State Infrastructure Fund shall consist of all moneys received from proceeds earmarked for this fund pursuant to s. ss. ~~201.15, 206.875, and 212.235. Such moneys shall only be expended pursuant to legislative appropriations for infrastructure facilities listed in s. 212.235(2).~~

Section 33. Subsection (1) of section 201.02, Florida Statutes, 1986 Supplement, as amended by chapter 87-6, Laws of Florida, is amended to read:

201.02 Tax on deeds and other instruments relating to real property or interests in real property.—

(1) On deeds, instruments, or writings whereby any lands, tenements, or other real property, or any interest therein, shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or any other person by his direction, on each \$100 of the consideration therefor the tax shall be 50 55 cents. When the full amount of the consideration for the execution, assignment, transfer, or conveyance is not shown in the face of such deed, instrument, document, or writing, the tax shall be at the rate of 50 55 cents for each \$100 or fractional part thereof of the consideration therefor.

Section 34. Effective March 1, 1988, section 201.15, Florida Statutes, as amended by chapters 87-6 and 87-96, Laws of Florida, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under the provisions of this chapter shall be distributed as follows:

(1) ~~Sixty-four and eight-tenths~~ ~~Sixty and eight-tenths~~ percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the General Revenue Fund of the state, to be used and expended for the purposes for which the General Revenue Fund was created and exists by law.

(2) ~~Twelve and five-tenths~~ ~~Eleven and eight-tenths~~ percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Sums deposited in such fund pursuant to this subsection may be used for any purpose for which funds deposited in the Land Acquisition Trust Fund may lawfully be used and may be used to pay the cost of the collection and enforcement of the tax levied by this chapter.

(3) ~~Three and one-tenth~~ percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Moneys deposited in the trust fund pursuant to this section shall be used for the following purposes:

(a) Sixty percent of the moneys shall be used to acquire coastal lands or to pay debt service on bonds issued to acquire coastal lands; and

(b) Forty percent of the moneys shall be used to develop and manage lands acquired with moneys from the Land Acquisition Trust Fund.

(4) ~~Nine and eight-tenths~~ ~~Nine and two-tenths~~ percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Water Management Lands Trust Fund. Sums deposited in that fund may be used for any purpose authorized in s. 373.59 and may be used to pay the cost of the collection and enforcement of the tax levied by this chapter.

~~(5) Six percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the State Infrastructure Trust Fund.~~

~~(5)(6) Nine and eight-tenths~~ ~~Nine and two-tenths~~ percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Conservation and Recreation Lands Trust Fund to carry out the purposes set forth in s. 253.023.

Section 35. Paragraph (b) of subsection (1) of section 206.87, Florida Statutes, as created by chapter 87-6, Laws of Florida, is hereby repealed.

Section 36. Subsection (3) of section 206.875, Florida Statutes, as created by chapter 87-6, Laws of Florida, is hereby repealed.



Section 37. (1) Section 207.026, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

207.026 Allocation of tax.—All moneys derived from the taxes and fees imposed by this chapter shall be paid into the State Treasury by the department for deposit in the Gas Tax Collection Trust Fund, from which the following transfers shall be made: After withholding \$50,000 from the proceeds therefrom, to be used as a revolving cash balance, the funds for the purpose of conducting the study as set forth in s. 4 of chapter 80-415, Laws of Florida, and the amount of funds necessary for the administration and enforcement of this tax, all other moneys shall be transferred in the same manner and for the same purpose as provided in ss. 206.41, 206.45, 206.60, 206.605, ~~206.875~~, and 212.69.

(2) It is the intent of the Legislature that the amendment of s. 207.026, Florida Statutes, by this act shall not affect the amendment of said section by section 13 of chapter 87-198, Laws of Florida, which is to take effect March 1, 1988.

Section 38. Subsection (3) of section 57.071, Florida Statutes, as created by chapter 87-6, Laws of Florida, is hereby repealed.

Section 39. Subparagraph 3. of paragraph (d) of subsection (3) of section 57.111, Florida Statutes, as created by chapter 87-6, Laws of Florida, is hereby repealed.

Section 40. Paragraph (b) of subsection (1) of section 120.57, Florida Statutes, 1986 Supplement, as amended by chapters 87-6 and 87-385, Laws of Florida, and as amended and reenacted by chapter 87-54, Laws of Florida, is amended to read:

120.57 Decisions which affect substantial interests.—The provisions of this section apply in all proceedings in which the substantial interests of a party are determined by an agency, unless such proceedings are exempt pursuant to subsection (5). Unless waived by all parties, subsection (1) applies whenever the proceeding involves a disputed issue of material fact. Unless otherwise agreed, subsection (2) applies in all other cases.

(1) FORMAL PROCEEDINGS.—

(b) In any case to which this subsection is applicable, the following procedures apply:

1. A request for a hearing shall be granted or denied within 15 days of receipt.

2. All parties shall be afforded an opportunity for a hearing after reasonable notice of not less than 14 days; however, the 14-day notice requirement may be waived with the consent of all parties. In a preliminary hearing for the revocation of parole, no less than 7 days' notice shall be given. In a hearing involving a student disciplinary suspension or expulsion conducted by an educational unit, the 14-day notice requirement may be waived by the agency head or the hearing officer without the consent of the parties. The notice shall include:

- a. A statement of the time, place, and nature of the hearing.
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held.
- c. A reference to the particular sections of the statutes and rules involved.

d. Except for any hearing before an unemployment compensation appeals referee, a short and plain statement of the matters asserted by the agency and by all parties of record at the time notice is given. If the agency or any party is unable to state the matters in sufficient detail at the time initial notice is given, the notice may be limited to a statement of the issues involved, and thereafter, upon timely written application, a more definite and detailed statement shall be furnished not less than 3 days prior to the date set for the hearing.

3. Except for any proceeding conducted as prescribed in s. 120.54(4), or s. 120.56, ~~or s. 120.575(1)(b)~~, a petition or request for a hearing under this section shall be filed with the agency. If the agency elects to request a hearing officer from the division, it shall so notify the division within 15 days of receipt of the petition or request. When the Florida Land and Water Adjudicatory Commission receives a notice of appeal pursuant to s. 380.07, the commission shall notify the division within 60 days of receipt of the notice of appeal if the commission elects to request the assignment of a hearing officer. On the request of any agency, the division

shall assign a hearing officer with due regard to the expertise required for the particular matter. The referring agency shall take no further action with respect to the formal proceeding, except as a party litigant, as long as the division has jurisdiction over the formal proceeding. Any party may request the disqualification of the hearing officer by filing an affidavit with the division prior to the taking of evidence at a hearing, stating the grounds with particularity.

4. All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to any order or hearing officer's recommended order, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications. If the agency proposes to consider such material, then all parties shall be given an opportunity to cross-examine or challenge or rebut it.

5. All pleadings, motions, or other papers filed in the proceeding must be signed by a party, the party's attorney, or the party's qualified representative. The signature of a party, a party's attorney, or a party's qualified representative constitutes a certificate that he has read the pleading, motion, or other paper and that, to the best of his knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any improper purposes, such as to harass or to cause unnecessary delay or for frivolous purpose or needless increase in the cost of litigation. If a pleading, motion, or other paper is signed in violation of these requirements, the hearing officer, upon motion or his own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

6. The record in a case governed by this subsection shall consist only of:

- a. All notices, pleadings, motions, and intermediate rulings;
- b. Evidence received or considered;
- c. A statement of matters officially recognized;
- d. Questions and proffers of proof and objections and rulings thereon;
- e. Proposed findings and exceptions;
- f. Any decision, opinion, proposed or recommended order, or report by the officer presiding at the hearing;
- g. All staff memoranda or data submitted to the hearing officer during the hearing or prior to its disposition, after notice of the submission to all parties, except communications by advisory staff as permitted under s. 120.66(1), if such communications are public records;
- h. All matters placed on the record after an ex parte communication pursuant to s. 120.66(2); and
- i. The official transcript.

7. The agency shall accurately and completely preserve all testimony in the proceeding, and, on the request of any party, it shall make a full or partial transcript available at no more than actual cost. In any proceeding before a hearing officer initiated by a consumptive use permit applicant pursuant to subparagraph 14., the applicant shall bear the cost of accurately and completely preserving all testimony and providing full or partial transcripts to the water management district. At the request of any other party, full or partial transcripts shall be provided at no more than cost.

8. Findings of fact shall be based exclusively on the evidence of record and on matters officially recognized.

9. Except as provided in subparagraph 12., the hearing officer shall complete and submit to the agency and all parties a recommended order consisting of his findings of fact, conclusions of law, interpretation of administrative rules, and recommended penalty, if applicable, and any other information required by law or agency rule to be contained in the final order. The agency shall allow each party at least 10 days in which to submit written exceptions to the recommended order.

10. The agency may adopt the recommended order as the final order of the agency. The agency in its final order may reject or modify the conclusions of law and interpretation of administrative rules in the recom-

mended order, but may not reject or modify the findings of fact unless the agency first determines from a review of the complete record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The agency may accept the recommended penalty in a recommended order, but may not reduce or increase it without a review of the complete record and without stating with particularity its reasons therefor in the order, by citing to the record in justifying the action. When there is an appeal, the court in its discretion may award reasonable attorney's fees and costs to the prevailing party if the court finds that the appeal was frivolous, meritless, or an abuse of the appellate process or that the agency action which precipitated the appeal was a gross abuse of the agency's discretion.

11. If the hearing officer assigned to a hearing becomes unavailable, the division shall assign another hearing officer who shall use any existing record and receive any additional evidence or argument, if any, which the new hearing officer finds necessary.

12. A hearing officer who is a member of an agency head may participate in the formulation of the final order of the agency, provided he has completed all his duties as hearing officer.

13. In any application for a license or merger pursuant to title XXX-VIII which is referred by the agency to the division for hearing pursuant to this section, the hearing officer shall complete and submit to the agency and to all parties a written report consisting of findings of fact and rulings on evidentiary matters. The agency shall allow each party at least 10 days in which to submit written exceptions to the report.

14. In any application for a consumptive use permit pursuant to part II of chapter 373, the water management district on its own motion may, or, at the request of the applicant for the permit, shall, refer the matter to the division for the appointment of a hearing officer to conduct a hearing under this section.

Section 41. Paragraph (b) of subsection (1) of section 120.575, Florida Statutes, as created by chapter 87-6, Laws of Florida, and amended by chapter 87-101, Laws of Florida, is hereby repealed.

Section 42. Subsection (5) of section 120.65, Florida Statutes, as created by chapter 87-6, Laws of Florida, and amended by chapter 87-101, Laws of Florida, is hereby repealed.

Section 43. Section 213.30, Florida Statutes, as created by chapter 87-6, Laws of Florida, is hereby repealed.

Section 44. Any person who, before the effective date of this act, was required by s. 212.13, Florida Statutes, as amended by chapters 87-6 and 87-101, Laws of Florida, to keep records relating to the sale or use of services, shall continue to keep such records for a period of 3 years, and such records shall be available for inspection in the same manner as records kept pursuant to s. 212.13, Florida Statutes. The failure to keep such records or to allow their inspection as required by this section is subject to the same penalties provided in s. 212.13, Florida Statutes.

Section 45. The repeal by this act of any statute or part of a statute does not affect the prosecution or continued prosecution of any cause of action that accrued prior to the effective date of this act.

Section 46. Section 33 of chapter 87-6, Laws of Florida, as amended by chapter 87-101, Laws of Florida, is amended to read:

Section 33. The Legislature hereby finds that the failure to promptly implement the provisions of this act would present an immediate threat to the welfare of the state because revenues needed for operation of the state would not be collected. Therefore, the executive director of the Department of Revenue is hereby authorized to adopt emergency rules pursuant to s. 120.54(9), Florida Statutes, for purposes of implementing this act. Notwithstanding any other provision of law, such emergency rules shall remain effective *through December 31, 1987 for 6 months from the date of adoption*. Other rules of the Department of Revenue related to and in furtherance of the orderly implementation of chapter 87-6, Laws of Florida, and this act shall not be subject to a s. 120.54(4), Florida Statutes, rule challenge or a s. 120.54(17), Florida Statutes, drawout proceeding, but, once adopted, shall be subject to a s. 120.56, Florida Statutes, invalidity challenge. Such rules shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(13), Florida Statutes.

Section 47. All services subject to tax under the provisions of chapter 87-6, Laws of Florida, as amended, which were sold or used in the state prior to the effective date of this act remain taxable under the provisions of said chapter, notwithstanding that payment for those services was received by the dealer after the effective date of this act. This act shall not be construed in any way to prohibit subsequent collection or enforcement of taxes due under the provisions of said chapter prior to the effective date of this act. To this end, the audit, collection, and enforcement powers of the Department of Revenue shall be construed to ensure that all taxes imposed by said chapter prior to the effective date of this act are received by the state.

Section 48. (1) The department shall promulgate rules to ensure the orderly implementation of this act.

(2) This section shall take effect upon this act becoming a law.

Section 49. Effective April 15, 1988, subsection (4) of section 125.0167, Florida Statutes, as created by chapter 83-220, Laws of Florida, is hereby repealed.

Section 50. Effective April 15, 1988, section 3 of chapter 83-220, Laws of Florida, is amended to read:

Section 3. This act shall take effect October 1, 1983, and the provisions thereof shall expire and be void and inoperative on October 1, 2010 1993.

Section 51. Paragraph (mm) is added to subsection (1) of section 216.011, Florida Statutes, as amended by section 3 of chapter 87-137, Laws of Florida, to read:

216.011 Definitions.—

(1) For the purpose of fiscal affairs of the state, appropriations acts, legislative budgets, and approved budgets, each of the following terms has the meaning indicated:

(mm) "*Proviso*" means language that qualifies or restricts a specific appropriation and which can be logically and directly related to the specific appropriation.

Section 52. Subsection (7) of section 216.031, Florida Statutes, as amended by section 5 of chapter 87-137, Laws of Florida, is hereby repealed.

Section 53. Section 216.046, Florida Statutes, is amended to read:

216.046 Governor's supplemental recommendations.—The Governor may make supplemental revenue and appropriation recommendations to the Legislature at least 45 days prior to the annual session in any even-numbered year. The supplemental recommendations shall include the information required in ss. 216.162-216.168 and shall use as a base the most recent legislative appropriations act or approved operating budget.

Section 54. Section 216.081, Florida Statutes, is amended to read:

216.081 Data on legislative expenses.—

(1) On or before November 1 in each even-numbered year, in sufficient time to be included in the Governor's recommended budget report to the Legislature, estimates of the financial needs of the legislative branch during the ensuing biennium shall be furnished to the Governor pursuant to chapter 11.

(2) All of the data relative to the legislative branch shall be for information and guidance in estimating the total financial needs of the state for the ensuing biennium; but none of these estimates shall be subject to revision or review by the Governor, and they must be included in his recommended budget report to the Legislature.

Section 55. Section 216.167, Florida Statutes, is amended to read:

216.167 Governor's recommendations.—The Governor's recommendations shall include a financial schedule which shall provide:

(1) His estimate of the recommended recurring revenues available in the Working Capital Fund, the State Infrastructure Fund, and the General Revenue Fund.

(2) His estimate of the recommended nonrecurring revenues available in the Working Capital Fund, the State Infrastructure Fund, and the General Revenue Fund.

(3) His recommended recurring and nonrecurring appropriations from the Working Capital Fund, the State Infrastructure Fund, and the General Revenue Fund, ~~and the Federal Revenue Sharing Fund.~~

(4) His estimates of any interfund loans or temporary obligations of the Working Capital Fund or trust funds, which loans or obligations are needed to implement his recommended budget.

(5) *His estimates of the debt service and reserve requirements for any recommended new bond issues or reissues and his recommended debt service appropriations for all outstanding fixed capital outlay bond issues.*

Section 56. Subsection (1) of section 216.181, Florida Statutes, as amended by section 58 of chapter 87-224, Laws of Florida, is amended to read:

216.181 Approved budgets for operations and fixed capital outlay.—

(1) On or before the fifth day before the end of the period allowed by law for veto consideration in July 1 of any year in which an appropriation is made, the chairmen of the legislative appropriations committees shall jointly transmit a statement of intent, including performance and workload measures as appropriate and the official list of General Revenue Fund appropriations determined in consultation with the Executive Office of the Governor to be nonrecurring, to the Executive Office of the Governor, the Comptroller, the Auditor General, and each state agency. The statement of intent may not allocate or appropriate any funds, or amend or correct any provision, in the General Appropriations Act, but may provide additional direction and explanation to the Executive Office of the Governor, the Administration Commission, and each affected state agency relative to the purpose, objectives, spending philosophy, and restrictions associated with any specific appropriation category. The statement of intent shall compare the request of the agency or the recommendation of the Governor to the funds appropriated for the purpose of establishing intent in the development of the approved operating budget. A request for additional explanation and direction regarding the legislative intent of the general appropriations act during the fiscal year may be made only by and through the Executive Office of the Governor as is deemed necessary. However, the Comptroller may also request further clarification of legislative intent pursuant to his responsibilities related to his preaudit function of expenditures.

Section 57. Subsection (5) of section 216.292, Florida Statutes, is amended to read:

216.292 Appropriations nontransferable; exceptions.—

(5) The Executive Office of the Governor may approve any transfer from the Working Capital Fund to the General Revenue Fund provided such transfer was identified or contemplated by the Legislature in the original approved operating budget.

Section 58. Paragraph (c) of subsection (1) of section 216.301, Florida Statutes, is amended to read:

216.301 Appropriations; undisbursed balances.—

(1)

(c) Each department shall maintain the integrity of the general revenue fund. Appropriations from the general revenue fund for any state agency contained in the original approved operating budget may, with the approval of the Executive Office of the Governor, be transferred to the proper trust fund for disbursement. However, all transferred general revenue funds which are unexpended on June 30 are subject to the general revenue reversion provision of this chapter.

Section 59. Subsections (2) and (3) of section 235.41, Florida Statutes, as amended by section 47 of chapter 87-329, Laws of Florida, are amended to read:

235.41 Legislative capital outlay budget request.—

(2) The commissioner shall submit to the Governor and to the Legislature an integrated, comprehensive budget request for educational facilities construction and fixed capital outlay needs for all boards, including the Board of Regents, pursuant to the provisions of s. 235.435 and applicable provisions of chapter 216. Each board, including the Board of Regents, shall submit to the commissioner a 3-year plan and data required in the development of the annual capital outlay budget. No further disbursements shall be made from the Public Education Capital Outlay and Debt Service Trust Fund to a board that fails to timely submit the required data until such board submits the data.

(3) The commissioner shall submit an integrated, comprehensive budget request to the Executive Office of the Governor and to the Legislature no later than 60 45 days prior to the legislative session each fiscal year. Notwithstanding the provisions of s. 216.043, the integrated, comprehensive budget request shall include:

(a) For the Public Education Capital Outlay and Debt Service Trust Fund and all sinking and investment accounts which are in receipt of any portion of the revenue sources listed in s. 235.42(2)(a):

1. A schedule for each fund showing the actual beginning cash balance for each of the 2 prior fiscal years and showing for the current fiscal year the estimated beginning cash balance and a listing of all disbursements and receipts.

2. For the budget fiscal year for each fund, the projected beginning cash balance, a monthly projection of all receipts, and a monthly projection of all disbursements.

3. For the budget fiscal year, necessary forecasting data to enable the commissioner to prepare and submit a monthly gross receipts tax forecast, a monthly bond proceeds estimate, the interest rate assumption used in the bond proceeds estimate, a monthly interest earnings forecast, the interest rate assumption used in the calculation of interest to be received on the idle balances invested, and any other reports as deemed necessary by the Legislature.

(b)(4) Recommendations for the priority of expenditure of funds in the state system of public education, with reasons for the recommended priorities, and other recommendations which relate to the effectiveness of the educational facilities construction program.

All items in s. 235.435 shall be part of the legislative budget request submitted by the commissioner.

Section 60. If Part I of this act takes effect as specified herein, the amendments to or repeal of statute sections or portions thereof contained in Part I shall prevail over any conflicting amendments contained in Part II of this act.

Section 61. Part I of this act shall take effect February 1, 1988, except as otherwise provided herein.

Section 62. (1) Part I of this act is repealed effective January 31, 1988, if an affirmative vote is cast by a majority of the electors of the state voting in a referendum to be held on January 12, 1988, at which the following question shall be placed on the ballot:

#### SALES TAX QUESTION

Do you favor the retention of the sales tax on services and the increase in the documentary stamp tax as adopted in 1987 and presently in effect, instead of increasing the general sales tax from 5 percent to 5.5 percent on goods, admissions, and rentals?

(2) It is the intent of the Legislature that an affirmative vote on the question by a majority of the electors voting in such referendum shall repeal the provisions of Part I of this act as provided in subsection (1). If a court of competent jurisdiction rules that such an affirmative vote may not act to repeal the provisions of Part I of this act, the results of the referendum shall be regarded as a straw poll, and the provisions of Part I of this act shall continue to be in force as provided therein.

(3) This section shall take effect upon becoming a law.

Section 63. (1) On January 12, 1988, there shall be held in all of the counties of the state a referendum to elicit the views of the public on a matter of vital interest to the State of Florida.

(2) The following question shall be placed upon the ballot on January 12, 1988:

#### SALES TAX QUESTION

Do you favor the retention of the sales tax on services and the increase in the documentary stamp tax as adopted in 1987 and presently in effect, instead of increasing the general sales tax from 5 percent to 5.5 percent on goods, admissions, and rentals?

(3) It is the intent of the Legislature that if the provisions of section 62 of this act are held to be invalid, the invalidity shall not affect the provisions of this section, and to that end the provisions of this section are declared to be severable.

- (4) This section shall take effect upon becoming a law.

Section 64. (1) The Department of State shall prepare a notice of the referenda election to be held in accordance with sections 62 and 63 of this act which notice shall state the questions to be presented and the date of the referenda election. The Department of State shall deliver a copy of such notice to the supervisor of elections in each county and each supervisor shall provide at least 20 days' notice of the referenda to be held in accordance with sections 62 and 63 of this act by publication in a newspaper of general circulation in each of the counties of this state. The publication shall be made at least twice, once in the third week and once in the first week prior to the week in which the referenda are to be held. If there is no newspaper of general circulation in a county, the notice shall be posted in no less than five places within the territorial limits of the county.

(2) Each county incurring expenses as a result of conducting this election shall be reimbursed by the state. Reimbursement shall be based on actual expenses directly related to the referenda election, as filed by the supervisor of elections with the county governing body. The Department of State shall verify the expenses and submit to the Comptroller authorization for payment.

(3) The provisions of this section regarding the providing of notice and the payment of expenses are intended to be exclusive and shall supersede any provisions to the contrary provided under the laws of this state.

- (4) This section shall take effect upon becoming a law.

#### PART II

Section 65. Effective January 1, 1988, paragraph (a) of subsection (1) and subsection (2) of section 212.059, Florida Statutes, as created by chapter 87-6, Laws of Florida, and subsection (3) of said section, as amended by chapter 87-101, Laws of Florida, are amended, and subsection (6) of said section, as created by chapter 87-101, Laws of Florida, is hereby repealed, and new subsections (6) and (7) are added to said section, to read:

212.059 Sales and use tax on services.—It is hereby declared to be the legislative intent to levy an excise tax on the sale of services in this state as hereinafter provided. It is further declared to be the legislative intent to levy a complementary excise tax on the use of services in this state as hereinafter provided.

(1)(a) A tax is hereby imposed on the sale at retail, ~~of any service~~ in this state, ~~of services as defined in s. 212.02~~, at the rate of 5 percent of the sales price of the service. The tax shall be computed on each taxable sale of a service for the purpose of remitting the amount of tax due the state, and shall include each and every retail sale ~~of the a service~~.

(2) A tax is hereby imposed on the use, ~~of any service~~ in this state, ~~of services as defined in s. 212.02~~, when the sale of the service is at retail outside this state, at the rate of 5 percent of the cost price of the service. The use of ~~the a service~~ is in this state for purposes of this part ~~only if and to the extent that it is presumed used in this state pursuant to s. 212.0591(9) if the benefit of the service is enjoyed in this state. For purposes of determining where the benefit of the services is enjoyed, s. 212.0591(9) shall apply.~~

(3)(a) *Except as provided in paragraph (a)*, the sales and use tax on services imposed by this section shall be collected by the dealer as defined in this part and remitted by him to the state at the time and in the manner as provided in this part.

(b)1. If the sale of a service is outside this state, any applicable use tax shall be remitted by the purchaser or user of the service, if the purchaser or user of the service has nexus for sales and use tax purposes with this state. However, this paragraph shall not apply to interstate or international transportation services. ~~Neither does this paragraph apply if the seller has tax nexus in this state and the service sold~~

2. *Notwithstanding other provisions to the contrary, a dealer shall collect and remit use tax on the sale of a service outside this state if the service either directly relates to real property in this state, directly relates to tangible personal property in this state other than vehicles or vessels in interstate or foreign commerce, or is represented by tangible evidence, other than a bill or invoice, personal property forwarded to a person in this state. However, the seller is not required to collect the use tax if the service is sold to a person who presents an exempt purchase permit or an exempt purchase affidavit.*

(6) *When a member of a business group, which member has no sales and use tax nexus with this state, purchases a service to be used in this state by a member of the group having sales and use tax nexus with this state, the member or members having tax nexus with this state shall be liable for use tax on the sales price of the service. For purposes of this subsection, "sales price" means the sales price paid or incurred by the business having no tax nexus with this state which purchased the service. In the event that the member does not provide the department with adequate proof of the sales price of services used in Florida, the department shall reasonably estimate the sales price and this estimate will be presumed valid for purposes of this part. Those members of a business group having tax nexus in this state shall file returns under this part on a combined basis.*

(7) *Notwithstanding the foregoing provisions, any sale of computer or data processing services shall be presumed to have occurred in the state in which the seller delivers those services to the purchaser. If the seller of those services is delivering them to multiple locations, the purchaser shall designate a single location as the location at which all such services are delivered for purposes of this subsection. However, if one or more of the locations are in this state, that location shall be designated for purposes of this provision. The seller shall be entitled to rely upon the designation provided by the purchaser. This provision shall not relieve the purchaser or user of any liability for sales or use tax imposed in this part.*

Section 66. Effective January 1, 1988, subsection (9) of section 212.0591, Florida Statutes, as created by chapter 87-6, Laws of Florida, and amended by chapter 87-101, Laws of Florida, is amended to read:

212.0591 Rules of construction.—For purposes of the sales and use tax on services, the following rules of construction shall apply:

(9) For purposes of determining where ~~the benefit of the a service is used enjoyed~~, the following provisions shall be applicable:

(a) If the purchaser or user is an individual not acting as a business, and:

1. If the service directly relates to real property, ~~the benefit of the service shall be presumed to be used enjoyed~~ where the real property is located; or

2. If subparagraph 1. is not applicable, ~~the benefit of the a service shall be presumed to be used enjoyed~~ where the purchaser receives tangible evidence, ~~other than a bill or invoice, personal property~~ representing the service; or

3. If subparagraphs 1. and or 2. are not applicable, ~~the benefit of the service shall be presumed to be used enjoyed~~ where the greater proportion of the service is performed, based on costs of performance; or

4. Notwithstanding subparagraphs 1., 2., and 3., if the purchaser can demonstrate to the satisfaction of the department that ~~the benefit of the service was used enjoyed~~ outside of this state, the service shall be deemed used or consumed outside of this state.

(b) If the purchaser or user is a multistate business, or a member of a business group, one or more members of which is multistate, or one or more members of which is located outside this state, the multistate business, or in the case of a business group, the business group can elect to have the provisions of this paragraph of paragraph (c) apply. If elected, paragraph (c) shall apply, separately to each member of the business group. The department shall adopt rules governing the procedure for making an annual election. ~~and: This paragraph (b) shall apply to all other businesses.~~

1. If the service directly relates to real property, ~~the benefit of the service shall be presumed to be used enjoyed~~ where the real property is located; or

2. If the service directly relates to tangible personal property, ~~the benefit of the service shall be presumed to be used enjoyed~~ where the property has acquired a business situs if the property has acquired such situs; or

3. If the service directly involves sales to a service purchaser's or user's local market, ~~the benefit of the service shall be presumed to be used enjoyed~~ where the purchaser's local market exists; or

4. If subparagraphs 1., 2., and 3. are not applicable, and the purchaser of the service is doing business in this state and outside of this state, the

service shall be presumed to be used enjoyed in this state to the extent that the purchaser is doing business in this state. For purposes of determining the extent of the purchaser's business in this state, the apportionment formulas set forth in part IV of chapter 214, as modified by s. 220.15(4), shall be utilized. In the case of a business ~~an~~-affiliated group, the business affiliated group, as defined in s. 212.02, shall be considered the purchaser for purposes of this subsection; or

5. If the provisions of subparagraphs 1., 2., 3., and 4. are not applicable, ~~the benefit of the service shall be presumed to be used enjoyed where the purchaser is exclusively doing business; or~~

6. Notwithstanding subparagraphs 1., 2., 3., 4. and 5., if the purchaser can demonstrate to the satisfaction of the department that ~~the benefit of the service was used enjoyed outside of this state, the service shall be deemed used or consumed outside of this state.~~

(c)1. If the service directly relates to real property located in a single state, including but not limited to the financing, purchase, sale, leasing, servicing, improvement, construction, alteration, repair, or maintenance of real property, the service shall be presumed to be used where the real property is located; or

2. If the service directly relates to tangible personal property which has an actual situs in a single state, including the financing, purchase, sale, leasing, servicing, improvement, manufacture, fabrication, alteration, repair, or maintenance of that tangible personal property, the service shall be presumed to be used where the property has acquired an actual situs if the property has acquired such situs; or

3. If the service directly relates to the sales to, or affects, enhances, or protects a purchaser's or user's local market (which is an area not to exceed a single state or Standard Metropolitan Statistical Area), the service shall be presumed to be used where the local market exists; or

4. If the service directly relates to or is associated with compliance, avoidance, evasion, or comprehension of the laws of a state or a single political subdivision thereof or civil or criminal liability under the laws of a single state or a political subdivision thereof, then the service shall be presumed to be used in that state; or

5. If the service directly relates to or is associated with, any matter litigated in a court of law or pursued in an administrative tribunal, then the service shall be presumed to be used where the court or administrative tribunal is situated; or

6. If subparagraphs 1., 2., 3., 4., and 5. are not applicable and the service directly relates to real property, tangible personal property, or a local market, notwithstanding the limitation in paragraph 3., located both within and outside of this state and more than 50 percent of that real property, tangible personal property, or single local market is located in this state, the service shall be presumed used in this state to the same extent that the real property, tangible personal property, or local market is located in this state. The portion of the service presumed used in this state under this provision shall be equal to the proportion that the real property, tangible personal property, or local market located in this state bears to the total real property, tangible personal property, or local market to which the service relates. For purposes of this provision, determinations concerning real property and tangible personal property shall be based on the value of the property and determinations concerning a local market shall be based on the population within that local market or such other measures as may reasonably define the local market. Tangible personal property is located in this state only to the extent that it has acquired an actual situs in this state; or

7. If subparagraphs 1. through 6. are not applicable and the purchaser or user is exclusively doing business in a single state, the service shall be presumed to be used where the purchaser or user is exclusively doing business; or

8. If subparagraphs 1. through 7. are not applicable and the service relates to the business or investment activities of one or more offices, departments, or other divisions located entirely within Florida or entirely outside Florida, the service shall be presumed to be used where such offices, departments, or other divisions are located; or

9. If subparagraphs 1. through 8. allocate the use of a service to a particular location, and that allocation does not reasonably reflect where the service is used, the taxpayer may use or the department may require the use of another method of allocation which reasonably reflects the location at which the service is used.

(d)(e) Notwithstanding paragraphs (a), ~~and (b); and (c)~~, interstate and international transportation services shall be presumed to be used enjoyed in this state to the extent that the sales price or cost price of such services is apportioned to this state pursuant to s. 212.059(5).

~~(d) Notwithstanding paragraphs (a) and (b), advertising shall be presumed to be enjoyed in this state to the extent that the sales price or cost price of such services is apportioned to this state pursuant to s. 212.059(5).~~

(e) Notwithstanding paragraphs (a), ~~and (b); and (c)~~, the use benefit of a service provided to the estate of a decedent shall be presumed to be used enjoyed where the decedent last established residency.

Section 67. Effective January 1, 1988, subsections (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26), (27), (28), (29), (30), (31), (32), (33), (34), (35), (36), (37), (38), (39), (40) and (41) of section 212.0592, Florida Statutes, as created by chapter 87-6, Laws of Florida, and amended by chapter 87-101, Laws of Florida, and subsections (42), (43), (44), (45), (46), (47), (48), (49), (50) and (51) of said section, as created by chapter 87-101, Laws of Florida, are hereby repealed.

Section 68. Effective January 1, 1988, paragraphs (a) and (b) of subsection (1) and subsection (5) of section 212.0592, Florida Statutes, as created by chapter 87-6, Laws of Florida, and amended by chapter 87-101, Laws of Florida, are amended to read:

212.0592 Exemptions from sales or use tax on services.—There shall be exempt from the tax on the sale or use of services imposed by ss. 212.059(1) or (2), 212.0594, and 212.0595 the following:

(1)(a) Services sold in this state ~~which are not used in for use outside of this state.~~

(b) A service shall be deemed to be purchased for use ~~where the benefit of the service is enjoyed in this state to the extent that it is presumed used in this state pursuant to For purposes of determining where the benefit of the service is enjoyed, s. 212.0591(9) shall apply.~~

(5) Services between members of a business ~~an~~-affiliated group of corporations, as defined in s. 212.02. However, this exemption shall apply only to the sale or use of any service between any such members who are included in the affiliated group for purposes of this part. If the exemption provided in this subsection is not applicable, the sales price or cost price of the service between each unincorporated member and any other member shall be based upon the fair market value of the service. The sale or use of services between divisions that may be separate taxpayers within the same corporation shall be exempt. Nothing herein shall be construed to require the filing of a consolidated return under chapter 220 in order to qualify for the exemption granted by this subsection.

Section 69. Effective January 1, 1988, subsections (1), (2), and (3) of section 212.0593, Florida Statutes, as created by chapter 87-6, Laws of Florida, and amended by chapter 87-101, Laws of Florida, are amended to read:

212.0593 Administration of s. 212.0592(1).—

(1) Each multistate business having sales and use tax nexus in this state ~~under this part~~ shall obtain from the department an exempt purchase permit prior to claiming an exemption under s. 212.0592(1). ~~For purposes of this section, a corporation doing business only in Florida may obtain an exempt purchase permit as a multistate business if it is part of a business group, as defined in s. 212.02, which is doing business in this state and outside of this state. Such permit shall be used when purchasing any service sold in this state except advertising, regardless of whether the service is used in this state. Upon purchasing a service from a dealer registered under this part, presentation by said multistate business of a valid exempt purchase permit shall absolve the selling dealer from the responsibility of collecting any sales or use tax which may be due on the service. The purchaser shall self-accrue any taxes which may be due on the service and remit them to the department in the manner and under the requirements applicable to dealers under this part, subject to such additional reporting requirements as the department may prescribe.~~

(2) Any business or group of businesses without sales and use tax nexus in this state ~~under this part~~, and any individual resident in another state claiming an exemption under s. 212.0592(1), shall obtain an exempt purchase permit under subsection (1) and consent to be subject to the jurisdiction of this state solely for the purpose of verifying entitlement



to the exemption enforcement of the sales tax on services, or shall execute and present to the selling dealer an exempt purchase affidavit on a form prescribed by the department. The affidavit shall include the federal employer identification number of the business or social security number of the individual, the purchaser's location and mailing address, a statement that the business does not have sales and use tax nexus in this state under this part or that the individual is not a resident of this state, the name and registration number of the selling dealer, and a statement of consent by the purchaser to be subject to the jurisdiction of this state solely for the purpose of verifying entitlement to the exemption enforcement of the sales tax on services. The affidavit shall also contain such other information as the department may prescribe. Acceptance of a valid exempt purchase permit or affidavit shall absolve the selling dealer from the responsibility of collecting any sales tax which may be due on the service.

(3) Each dealer shall maintain a monthly log showing each transaction for which sales tax was not collected because of the presentation of an exempt purchase permit or exempt purchase affidavit under this section. The log shall identify the purchaser, the exempt purchase permit number if applicable, the service sold, the price of the service and such other information as the department may prescribe. The logs and all affidavits accepted by the dealer shall be retained by the dealer for 5 years and made available to the department upon request. Failure to maintain these records or to make them available to the department shall subject the dealer to a \$100 mandatory penalty.

Section 70. Effective January 1, 1988, section 212.0594, Florida Statutes, as created by chapter 87-101, Laws of Florida, is amended to read:

212.0594 Construction services; special provisions.—

(1) For purposes of this section:

(a) "Prime contractor" means:

1. A person who enters into a contract to construct, improve, alter, or repair realty with the person for whose benefit the realty is being constructed, improved, altered, or repaired, unless the contract specifies that the person for whose benefit the realty is being modified is assuming the responsibilities of a prime contractor pursuant to subparagraph 3., and that person is the final consumer of the realty;

2. A person who enters into a contract to undertake the primary responsibility for supervising and disbursing payments for the construction, improvement, alteration or repair of realty with the person for whose benefit the realty is being constructed, improved, altered, or repaired, in which case, all other persons involved in the construction who would otherwise qualify as prime contractors under subparagraph 1. shall be deemed subcontractors;

3. A person who undertakes, on a speculative basis or for his own use, the construction, improvement or alteration of realty; or

4. A person who manufactures factory-built buildings.

(b) "Subcontractor" means a person who enters into a contract to provide construction services to a prime contractor or to another subcontractor.

(c) "Construction services" means any activity directly involving the construction, alteration, improvement or repair of realty.

(d) "Construction support services" means architectural, engineering, drafting, surveying, land planning, landscape design and interior design services when such services directly relate to the construction, alteration, improvement or repair of realty.

(d)(e) "New Construction" means factory-built buildings and any construction, alteration, improvement or repair of realty for which the contract price or cost price, including building materials used, exceeds \$5,000.

(e)(f) "Building materials" means tangible personal property physically incorporated into the affected realty.

(f)(g) "Contract price" means the total consideration paid pursuant to a contract for the construction, alteration, improvement or repair of realty, or in the case of new construction undertaken on a speculative basis, the total consideration paid pursuant to a contract to purchase the improved realty. However, the following may be excluded from the contract price shall not include the:

1. The fair market value of land and any improvements to the land existing prior to the contract for the construction, alteration, improvement or repair of the realty, or the value of construction support services provided by other than employees of the prime contractor.

2. The fair market value of any improvements to the land to the extent the construction of the improvements has previously been taxed pursuant to this section;

3. Payments to subcontractors;

4. Payments for services, other than construction services, taxable pursuant to s. 212.059 or s. 212.0595;

5. Payments for government fees and taxes specific to the construction project;

6. Payments for insurance and bonds specific to the construction project; and

7. Payments made to financial institutions to reduce the permanent financing costs on the purchase of residential construction.

(g)(h) "Fair market value" means 120 percent of the property's assessed value for ad valorem tax purposes, as reflected by the most recent assessment roll for the county prior to the new construction, unless the prime contractor can demonstrate to the satisfaction of the department by proof of comparable sales, actual purchase price, or appraisal, that such assessment understates the value of the property.

(h)(i) "Cost price" means the direct and indirect costs of construction, including but not limited to, the cost of materials used, labor and service costs, interest charged, and overhead expenses; however, "cost price" shall not include any item that may be excluded from the definition of "contract price," without any deduction whatsoever.

(2) The tax imposed by s. 212.059 shall be applied to the sale of construction services in the following manner:

(a) For new construction undertaken pursuant to a contract, or undertaken on a speculative basis but sold within 6 months of completion of the new construction, the tax shall be imposed upon 50 percent of the contract price.

(b) For new construction undertaken for the prime contractor's own use, or undertaken on a speculative basis and not sold within 6 months of completion, the tax shall be based upon 50 percent of the cost price.

(c) For new construction consisting of factory-built buildings, the tax shall be imposed upon the cost price, less the amount paid for building materials incorporated into such buildings.

(d) For new construction undertaken for the prime contractor's own use or undertaken on a speculative basis, and directly related to real property registered or exempt pursuant to chapter 408, or regulated under chapter 721, the tax shall be imposed upon 50 percent of the cost price.

(e) For construction other than new construction, the tax shall be imposed upon the total contract price, less the amount paid by the prime contractor for building materials incorporated into the realty. However, the deduction for building materials shall only apply if the prime contractor has previously paid the sales tax on such materials, and the written contract or invoice provided by the prime contractor to the person for whom the construction was done specifically itemizes the building materials and the price paid by the prime contractor for such materials.

(d)(f) If new construction is undertaken pursuant to a contract that is not an arm's-length transaction, or if new construction is undertaken on a speculative basis and the realty is then sold within 6 months pursuant to a contract that is not an arm's-length transaction, the tax shall be imposed upon 50 percent of the cost price of the new construction, and not upon the contract price.

(g) For the construction or repair of roads pursuant to or in furtherance of a contract with a governmental entity described in s. 212.08(6), the tax shall not apply.

(h) For the construction or repair of property used primarily for public worship, the tax shall not apply.

(i) The tax on construction support services shall be imposed upon the total sales price for such services and shall be due and payable in accordance with the provisions of s. 212.059(4).



(e)(j) ~~Prime contractors for new construction shall be considered the final consumer of construction services consumed in improving realty. The owner of the affected real property shall be considered the final consumer of construction services other than those related to new construction. The prime contractor or subcontractor who purchases or uses building materials shall be considered the final consumer of the building materials.~~

(f) Construction services performed pursuant to or in furtherance of a contract with a governmental entity described in s. 212.08(6) or an exempt entity described in s. 212.08(7)(o) or a residential condominium association or residential cooperative association for improvements to the common elements or association property shall be exempt from the tax.

(g)(k) Notwithstanding other provisions of this subsection, no tax shall be imposed upon construction services or construction support services performed by one's own employees if the services are performed for an employer who is incidentally engaged in improving real property, such improvements are made in the furtherance of the employer's primary business, and the employer is not in the business of providing construction services. In addition, no tax shall be due on construction services performed by an individual who is engaged in the construction of his own primary residence.

(l) As an alternative method for computing the tax imposed in this subsection, the prime contractor may compute and pay the tax on construction services on new construction, as follows:

1. The tax on construction services purchased by prime contractors shall be due and payable by the prime contractor at the time consideration is paid for such services.

2. The tax on purchases of construction services by prime contractors shall be based on the total consideration paid to the subcontractor. However, if the written proposal, contract, or interim or final invoice of the subcontractor specifically describes, itemizes and states the price paid by the subcontractor for the building materials purchased by the subcontractor and incorporated into the improvement in fulfillment of his responsibilities under the subcontract, the tax shall be based on the total consideration less the price of said building materials.

3. The tax on the construction services any prime contractor provides with respect to new construction for himself or others shall be based upon the cost price to the prime contractor of the services he provides. However, the cost of building materials purchased by the prime contractor and incorporated into the new construction, and amounts paid to subcontractors upon which a sales tax has been paid, shall not be included in the cost price. The tax shall be due and payable as otherwise provided in this part at the time the contract for new construction is fulfilled or within 30 days after the certificate of occupancy is issued, whichever is sooner. The retail sale of new construction for which the prime contractor has paid tax pursuant to this paragraph shall be exempt from the tax imposed by this section.

4. This alternative method for computing the tax shall apply to construction services purchased or provided by a prime contractor for construction projects begun on or after July 1, 1988.

5. A prime contractor shall make the election to compute the tax pursuant to this paragraph on a form prescribed by the department. Any such election shall apply to all construction services purchased or provided by the prime contractor during the term of the election. The department shall promulgate rules regarding the application of the election to construction projects in progress at the time the election is made and construction projects which are in progress at the time the election is terminated. A prime contractor may not change the method for the payment of the tax more than once during any 12-month period.

(3) The tax imposed by s. 212.059 on construction services shall be due and payable in the following manner:

(a) Prime contractors and subcontractors licensed or registered pursuant to chapter 489 shall be entitled to obtain a resale permit from the department to be utilized when purchasing building materials. However, when building materials are purchased tax exempt by a person other than a governmental entity described in s. 212.08(6) or an exempt entity described in s. 212.08(7)(o), or a residential condominium association or a residential cooperative association for construction related to the common elements or association property and are used in construc-

tion done pursuant to or in furtherance of a contract with such an entity, the person purchasing the materials shall be deemed the ultimate consumer of the materials and shall be responsible for payment of a use tax on the sales price of the materials. The use tax shall be due when the materials are first used.

(b)(a) The Prime contractors contractor shall be responsible for collecting and remitting the tax on construction they perform services performed by himself and by his subcontractors.

(c)(b) Subcontractors shall be responsible for collecting and remitting not be required to collect the tax on construction services they perform.

(d)(e) For new construction undertaken pursuant to a contract, or undertaken on a speculative basis, the tax shall be due when the prime contractor or subcontractor is paid for the construction he performed. receives payments under the contract. If the contract price is paid in draws or installments, the amount of tax to be paid with respect to each such draw or installment, before application of the dealer credit, shall be that proportion of the tax due on the total contract price which the amount of the draw or installment bears to the total contract price.

(d) For new construction undertaken on a speculative basis, or for the prime contractor's own use, partial payment of the tax shall be due at such time payment is made by the prime contractor to the subcontractor based on 60 percent of the amount of such payment. Any tax amounts remaining shall be due 30 days after a certificate of occupancy is issued, or if no certificate of occupancy is required, when the new construction is first put to its intended use.

(e) For new construction undertaken for the prime contractor's own use, the tax shall be due when a certificate of occupancy is issued, or if no certificate of occupancy is required, when the new construction is first put to its intended use. However, the tax on construction performed by a subcontractor shall be due when the subcontractor is paid for the construction he performed.

(f) For construction other than new construction, the tax shall be due when the prime contractor receives payment for the construction services rendered.

(f)(g) Taxes due and payable pursuant to this section shall be remitted in accordance with s. 212.11.

(g)(h) No unit of local government shall issue a certificate of occupancy for new construction until the prime contractor certifies, on a form promulgated by the department and submitted to the local government, that the new construction is substantially complete. Such forms shall be provided to local governments by the department, and completed forms shall be returned monthly to the department by the local governments.

(4) Notwithstanding other provisions of this section to the contrary, the following provisions shall apply with regard to the taxation of road construction done pursuant to a contract:

(a) For road construction done pursuant to or in furtherance of a contract with a governmental entity described in s. 212.08(6) or an exempt entity described in s. 212.08(7)(o) the tax shall be imposed upon fifty percent of the contract price.

(b) For other road construction, the tax shall be imposed upon one hundred percent of the contract price.

(c) For purposes of this subsection:

1. "Contract price" means the total consideration paid pursuant to the contract to construct the road. However, if the contract price includes building materials upon which the sales or use tax has previously been paid, "contract price" may be reduced to reflect the value of such materials and tax.

2. "Road construction" means construction of roads as defined in s. 334.03(17) and private roads similarly defined and parking lots, airport landing areas, and helicopter pads.

(d) The prime contractor shall be responsible for self-accruing and remitting all taxes due pursuant to this subsection. Subcontractors shall not be required to remit tax.

(e) Prime contractors and subcontractors certified pursuant to Chapter 337 shall be entitled to obtain a resale permit from the department to be utilized when purchasing building materials.

(f) This tax shall be in lieu of any tax that would otherwise be imposed on road construction pursuant to s. 212.06.

(g) The tax imposed pursuant to this subsection shall be due when the prime contractor is paid. If the contract price is paid in draws or installments, the amount of tax to be paid with respect to each such draw or installment, before application of the dealer credit, shall be that proportion of the tax due on the total contract price which the amount of the draw or installment bears to the total contract price.

(5)(4) The following provisions of this part shall not apply with regard to the tax on construction services:

(a) Section 212.02(5), the definition of "cost price."

(b) ~~Section 212.02(21), the definition of "sales price."~~

(b)(e) Section 212.059(3), regarding the collection and remittance of the tax.

(c)(d) Section 212.059(4), regarding the time the tax is due.

(d)(e) Section 212.0591(4), regarding taxation of transactions previously taxed.

(e)(f) Section 212.0591(6), regarding separate statement of services and real property.

(f)(g) Section 212.0591(7), regarding separate statement of taxable and exempt services.

(g)(h) Section 212.0592(3), regarding occasional or isolated sales.

(h)(i) Section 212.0592(4), regarding services sold to partnerships.

(i)(j) Section 212.0592(5), regarding services sold between members of an affiliated group.

Section 71. Effective January 1, 1988, section 212.0595, Florida Statutes, as created by chapter 87-6, Laws of Florida, and amended by chapters 87-72 and 87-101, Laws of Florida, is hereby repealed.

Section 72. Effective January 1, 1988, section 212.0598, Florida Statutes, as created by chapter 87-101, Laws of Florida, is amended to read:

212.0598 Special provisions; air carriers.—

(1) Notwithstanding other provisions of this part to the contrary, any air carrier utilizing mileage apportionment for corporate income tax purposes in this state ~~required by the United States Department of Transportation to keep records according to said department's standard classification of accounting~~ may elect, upon the conditions prescribed in subsection (3), to attribute to this state pursuant to s. 212.0591(9)(b)4. use or consumption of all services and tangible personal property it purchases or uses. (4), to be subject to the tax imposed by this part on services and tangible personal property according to the provisions of this section.

(2) ~~The basis of the tax shall be the ratio of Florida mileage to total mileage as determined pursuant to part IV of chapter 214. The ratio shall be determined at the close of the carrier's preceding fiscal year. The ratio shall be applied each month to the carrier's total systemwide gross purchases of tangible personal property and services otherwise taxable in Florida.~~

(2)(3) It is the legislative intent that air carriers are hereby determined to be susceptible to a distinct and separate classification for taxation under the provisions of this part, if the provisions of this section are met.

(3)(4) The election provided for in this section shall not be allowed unless the purchaser makes a written request, in a manner prescribed by the Department of Revenue, to be taxed under the provisions of subsection (1) (2), and such person registers with the Department of Revenue as a dealer and extends to his vendor at the time of purchase, if required to do so, a certificate stating that the item or items to be partially exempted are for the exclusive use designated herein. ~~Otherwise, all purchases of taxable property and services purchased in this state shall be subject to taxation.~~

(4)(5) Notwithstanding other provisions of this part to the contrary, any air carrier eligible for the election provided in subsection (1) which does not so elect shall be subject to the tax imposed by this part on the purchase or use of services and tangible personal property purchased or used in this state, as well as other taxes imposed herein.

Section 73. Paragraph (g) of subsection (14), paragraph (a) of subsection (19) and subsection (21) of section 212.02, Florida Statutes, 1986 Supplement, as amended by chapters 87-6 and 87-101, Laws of Florida, are amended and, effective January 1, 1988, subsection (2) of said section is amended to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(2) "Business Affiliated group" is defined as follows:

(a) If the members of the group are taxed under s. 212.0591(9)(b), "business group" means: an affiliated group of corporations, as defined in s. 1504(a) of the Internal Revenue Code, whose members are includable under s. 1504(b), (c), or (d) of the Internal Revenue Code, and are eligible to file a consolidated tax return for Federal corporate income tax purposes, or mutual insurance companies which are members of one insurance holding company system subject to s. 628.801; however, s. 1504(b)(2) shall not apply to this definition. However, the taxpayer may elect, pursuant to rules of the department governing the procedure for making and amending such election, to define its business affiliated group in a manner which excludes any member who has no tax nexus in this state and any member whose business activities are unrelated to the business activities of other members of the group. ~~However, in no event shall a parent corporation of an included member be excluded from the affiliated group.~~

(b) If the members of the group are taxed under s. 212.0591(9)(c), "business group" means one or more chains of related corporations meeting the stock ownership or direct control requirement set forth in this paragraph. The stock ownership requirement is met if 80 percent of the voting power of one or more corporations or chains of corporations is owned directly or indirectly by a common parent. The direct control requirement shall be applicable to non-stock organizations and shall be met if the common parent directly controls at least one of the other includable corporations, and each of the includable corporations (except the common parent) is controlled directly by one or more of the other includable corporations. For purposes of this definition, "control" means, in the case of non-stock organization, the direct or indirect control of at least 80 percent of its directors. A director is controlled by an organization if such organization has the power to remove such director and designate a new director. "Includable corporations" means any corporation except those listed in paragraphs (2) through (7) of section 1504(b) of the Internal Revenue Code. The term "related corporations" or "related group of corporations" shall also include mutual insurance companies which are members of one insurance holding company system subject to s. 628.801. However, the term does not include members whose activities are not integrated with, interdependent upon, or contributory to a flow of value among the other members of the group, unless, for the purposes of this paragraph, the taxpayer elects otherwise.

(14) "Lease," "let," or "rental" means leasing or renting of living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps and real property, the same being defined as follows:

(g) "Lease," "let," or "rental" also means the leasing or rental of tangible personal property and the possession or use thereof by the lessee or rentee for a consideration, without transfer of the title of such property, except as expressly provided to the contrary herein. The term "lease," "let," "rental" or "service" does not mean hourly, daily, or mileage charges, to the extent that such charges are subject to the jurisdiction of the United States Interstate Commerce Commission, when such charges are paid by reason of the presence of railroad cars owned by another on the tracks of the taxpayer, or charges made pursuant to car service agreements. *However, where two taxpayers, in connection with the interchange of facilities, rent or lease property, each to the other, for use in providing or furnishing any of the services mentioned in s. 166.231, the term "lease or rental" means only the net amount of rental involved.*

(19)(a) "Retail sale" or a "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale in the form of tangible personal property or services, and includes all such transactions that may be made in lieu of retail sales or sales at retail. "Retail sale" does not include fee-sharing for services described in s. 475.01(1)(c) 475-011 by persons licensed under chapter 475. *Where a fee has been paid for a single service, and the tax has been remitted on the fee, no additional*

tax shall be imposed on the subsequent division of that fee between two or more persons. A sale of a service shall be considered a sale for resale only if:

1. The purchaser of the service provides a direct and identifiable benefit to a single client or customer of the purchaser ~~does not use or consume the service but acts as a broker or intermediary in procuring a service for his client or customer;~~

2. The purchaser of the service buys the service pursuant to a written contract with the seller or other written documentation which ~~and such contract~~ identifies, by name or other evidence sufficient for audit purposes, the client or customer for whom the purchaser is buying the service; and

3. The purchaser of the service separately states the value of the service purchased at the purchase price in his charge for the service on its subsequent sale;

4. ~~The service, with its value separately stated, will be taxed under this part in a subsequent sale, unless otherwise exempt pursuant to s. 212.0502(1); and~~

4.5. The service is purchased pursuant to a service resale permit by a dealer who is primarily engaged in the business of selling services. However, the department may authorize the issuance of a service resale permit to a dealer who is not primarily engaged in the sale of services if such dealer is otherwise regularly engaged in brokering services for clients or customers, and shall issue a resale permit to a dealer primarily engaged in contract work for a governmental entity described in s. 212.08(6). The department shall provide by rule for the issuance and periodic renewal every 5 years of such resale permits.

However, a sale, to other than an end user, of telecommunication services consisting of a right of access for which an access charge, as defined in s. 203.012(1), is imposed, is a sale for resale.

(21) "Sales price" means the total amount paid for tangible personal property or services, including any services that are a part of the sale and any tangible personal property that is part of the service, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost, interest charged, losses, or any other expense whatsoever. "Sales price" also includes the consideration for a transaction which requires labor or material to alter, remodel, maintain, adjust, or repair tangible personal property. Trade-ins or discounts allowed and taken at the time of sale shall not be included within the purview of this subsection. "Sales price" does not include travel and entertainment expenses, postage, or taxes or other governmental fees advanced on behalf of a client, if such expenses or charges are directly reimbursed at cost by the client.

Section 74. Effective January 1, 1988, subsections (22) and (24) of section 212.02, Florida Statutes, as created by chapter 87-6, Laws of Florida, are amended to read:

(Substantial rewording of subsections. See s. 212.02(22) and (24), F.S., for present text.)

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(22) The term "service" or "professional services" as used in this part means the following activities usually provided for consideration:

(a) Landscape and horticultural services as described in SIC Group Number 078, unless the services are provided for residential property; and boarding, grooming, training, showing, and pedigree services described in SIC Industry Group Number 0752 for household pets.

(b) Construction services as described in SIC Major Groups 15, 16 and 17 and as provided in s. 212.0594, except grave excavation services described in SIC 1799.

(c) Printing services as described in SIC Group Number 279.

(d) Coating, engraving and allied services as described in SIC Group Number 347.

(e) Sightseeing bus and limousine and automobile rental with driver services as described in SIC Industry Number 4119, passenger transportation charter services as described in SIC Group Number 414, and services of terminal and service facilities for motor vehicle passenger transportation as described in SIC Group Number 417.

(f) Terminal and joint terminal maintenance facility services for motor freight transportation as described in SIC Group Number 423.

(g) Air transportation services described in SIC Major Group 45 except international air transportation services. "International air transportation" shall have the same meaning as used in the Federal Aviation Act.

(h)1. Unless the service is provided to a nonresident entity or nonresident person as defined in Rule 3C-15.003, Florida Administrative Code, the following services of a financial nature for which a fee or charge is specifically imposed: use of safety deposit boxes; use of night deposit services; issuing cashier's checks; issuing traveler's checks; issuing money orders; issuing bank drafts; preparation of tax returns; copies of documents; stop payment services; return check services, unless due to insufficient funds; service as personal representative of estates of decedents; credit information and reporting services; overdraft services; hold mail services; guardianship services; credit card and charge card membership fees; cash vault services; financial planning services; public accounting services of a type not customarily performed in connection with a customer account; or data processing services not otherwise exempt, except check and draft processing and clearing services.

2. The following services of a financial institution are excluded:

- a. Any service for which the charge is waived or imputed; or
- b. Investment advisory services.

3. For the purposes of this paragraph, the term "financial institution" means a financial institution as defined in s. 655.005; any subsidiary thereof; any holding company, other than a diversified savings and loan holding company as defined in s. 408 of the National Housing Act, which controls a financial institution; any subsidiary of such holding company; any Federal Reserve Bank; and any Federal Home Loan Bank.

(i) Investment advisory services provided by an investment adviser as defined in s. 517.021(13)(a), except investment advisory services provided to an investment company registered under the Investment Company Act of 1940 or to any employee benefit plan subject to the provision of the Employee Retirement Security Act of 1974, as amended, or to any person exempt from federal income tax under the Internal Revenue Code, as amended.

(j) Provision of title insurance as described in SIC Group Number 636 that is in excess of the risk premium rate promulgated pursuant to s. 627.782.

(k) Laundry, cleaning and garment services as described in SIC Group Number 721, except coin-operated laundries and dry cleaning as described in SIC Industry Number 7215 and personal laundry services sold to residents of nursing home facilities, adult congregate living facilities, and hospices licensed under chapter 400; photographic services as described in SIC Group Number 722; and shoe repair services, shoe shine services, and hat cleaning services as described in SIC Group Number 725.

(l) Massage, steam bath, turkish bath, tanning salon, and tattoo parlor services described in SIC Industry Number 7299.

(m) Physical fitness facility services described in SIC Industry Number 7991, regardless of the nature or status of the provider and notwithstanding any other exemption provided by s. 212.08.

(n) Consumer credit reporting agency services, mercantile reporting agency and adjustment and collection agency services as described in SIC Group Number 732 except loan servicing contracts.

(o) Mailing, reproduction, commercial art and photography, and stenographic services described in SIC Industry Group Number 733.

(p) Pest control and maintenance services related to dwellings and other buildings as described in SIC Group Number 734, unless the services are provided for residential property.

(q) Miscellaneous business services as described in SIC Group Number 738, except for news syndicate services described in SIC Industry Number 7383, and except security guard services provided for residential property, and except lecture bureaus and speaker's bureaus.

(r) Personnel supply services described in SIC Industry Group Number 736, provided that help supply services provided pursuant to a contract to supply such services for a term in excess of 4 weeks shall not include the cost of payroll and related employment benefits of the employees so provided. If the help service is a non-taxable health service, it is excluded.

(s) Computer programming, data processing, and other computer related services described in SIC Industry Group Number 737, unless such services are performed for a financial institution by a service corporation of that financial institution, provided:

1. All capital stock of the service corporation may be purchased only by financial institutions.

2. Every eligible financial institution shall own an equal amount of capital stock or shall, on such uniform basis as the service corporation shall determine, own an amount of such stock equal to a stated percentage of its assets or savings capital at the time the stock is purchased, or an amount of such stock equal to its pro rata share of accounts serviced.

3. As used in this paragraph, "financial institution" means a financial institution as defined in s. 655.005.

(t) Coin-operated amusement devices described in SIC Industry Number 7993.

(u) Legal services as described in SIC Major Group 81 except for:

1. Legal services rendered by an attorney to a client to the extent that the right to counsel guaranteed pursuant to either the Sixth Amendment to the United States Constitution or Article I, Section 16 of the Florida Constitution is applicable to such legal services; and

2. Legal services, provided to a natural person, which relate to child support, dissolution of marriage, enforcement of civil rights, bankruptcy proceedings, or social security claims.

(v) Engineering, architectural and surveying services as described in SIC Group Number 871.

(w) Accounting, auditing and bookkeeping services described in SIC Industry Group Number 872, and tax preparation services described in SIC Industry Group Number 729.

(x) Automotive repair services described in SIC Industry Group Numbers 753 and 754, except coin-operated car washes and except emergency road services for which the total consideration is less than \$10.

(y) Miscellaneous repair services as described in SIC Major Group 76, except excluded are horseshoeing services.

(z) Management and public relations services described in SIC Industry Group Number 874, and business consulting services described in SIC Industry Number 8748.

(aa) Advertising agency services described in SIC Industry Number 7311, that are creative services that result in production of tangible personal property.

(bb) The following media and other services: ratings services, consulting services, broadcast engineering services, graphic and taping services, booking charges or delivery fees, forecasting and other weather services, marketing services, data processing, studio design services, market research services, security services, music license fees, advertising copy writers, radio and television announcers, newspaper columnists, feature syndicates and comics, radio commentators and weather forecasters, express delivery and courier services.

The term "service" or "professional service" shall exclude all services provided and paid for pursuant to court order in a bankruptcy proceeding and services provided in a proceeding to collect benefits pursuant to the Social Security Act. The term "service" or "professional service" shall also exclude maintenance assessments or fees paid by an association member to a homeowners association, condominium owners association, property owners association, mobile homeowners association, or cooperative association.

The term "service" or "professional service" shall also exclude any service performed by or through interstate telecommunications by a holder of a direct pay permit issued pursuant to s. 212.05(1)(e). The term "service" or "professional service" shall also exclude repair services under original warranty on diesel fueled motors.

(24) "SIC" means those classifications contained in the Standard Industrial Classification Manual, 1987, as published by the Office of Management and Budget, Executive Office of the President.

Section 75. Paragraph (a) of subsection (1) of section 212.031, Florida Statutes, 1986 Supplement, as amended by chapters 87-6 and 87-101, Laws of Florida, is amended to read:

212.031 Lease or rental of or license in real property.—

(1)(a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any real property unless such property is:

1. Assessed as agricultural property under s. 193.461.

2. Used exclusively as dwelling units.

3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).

4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association shall be fully taxable under this chapter.

5. A public or private street or right-of-way occupied or used by a utility for utility purposes.

6. A public street or road which is used for transportation purposes.

7. Property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft.

8. Property used at a port authority as defined in s. 315.02(2) exclusively for the purpose of oceangoing vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels.

9. Property used as an integral part of the *production of motion pictures on film or videotape performance of qualified production services as defined in s. 212.0593(18)(a)*.

10. Leased, subleased, or rented to a person providing food and drink concessionaire services within the premises of a movie theater, a business operated under a permit issued pursuant to chapter 550 or chapter 551, or any publicly owned arena, sports stadium, convention hall, exhibition hall, auditorium, or recreational facility. A person providing retail concessionaire services involving the sale of food and drink or other tangible personal property within the premises of an airport shall be subject to tax on the rental of real property used for that purpose, but shall not be subject to the tax on any license to use the property. For purposes of this subparagraph, the term "sale" shall not include the leasing of tangible personal property.

Section 76. Paragraph (b) of subsection (2) and paragraph (a) of subsection (3) of section 212.054, Florida Statutes, 1986 Supplement, as amended by chapter 87-6, Laws of Florida, are amended, and subsections (7) and (8) are added to said section to read:

212.054 Discretionary sales surtax; limitations, administration, and collection.—

(2)(a) The tax imposed by the governing body of any county authorized to so levy pursuant to s. 212.055 shall be a discretionary surtax on all transactions occurring in the county which are subject to the state tax imposed on sales, use, rentals, admissions, and other transactions by this part. The surtax, if levied, shall be computed as the applicable rate or rates authorized pursuant to s. 212.055 times any amount of tax imposed by and paid to the state pursuant to this part, except this section and s. 212.055, and shall be rounded to the nearest penny.

## (b) However:

1. The tax on any sales amount above \$5,000 ~~\$1,000~~ on any item of tangible personal property and on long distance telephone service shall not be subject to the surtax.

2. In the case of utility, telecommunication, or wired television services billed on or after the effective date of any such surtax, the entire amount of the tax for utility, telecommunication, or wired television services shall be subject to the surtax. In the case of utility, telecommunication, or wired television services billed after the last day the surtax is in effect, the entire amount of the tax on said items shall not be subject to the surtax.

3. In the case of written contracts which are signed prior to the effective date of any such surtax for the construction of improvements to real property or for remodeling of existing structures, the surtax shall be paid by the contractor responsible for the performance of the contract. However, the contractor may apply for one refund of any such surtax paid on materials necessary for the completion of the contract. Any application for refund shall be made no later than 15 months following initial imposition of the surtax in that county. The application for refund shall be in the manner prescribed by the department by rule. A complete application shall include proof of the written contract and of payment of the surtax. The application shall contain a sworn statement, signed by the applicant or its representative, attesting to the validity of the application. The department shall, within 30 days after approval of a complete application, certify to the county information necessary for issuance of a refund to the applicant. Counties are hereby authorized to issue refunds for this purpose and shall set aside from the proceeds of the surtax a sum sufficient to pay any refund lawfully due. Any person who fraudulently obtains or attempts to obtain a refund pursuant to this subparagraph, in addition to being liable for repayment of any refund fraudulently obtained plus a mandatory penalty of 100 percent of the refund, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) For the purpose of this section, a transaction shall be deemed to have occurred in a county imposing the surtax when:

(a) The dealer is located in the county and the sale includes tangible personal property ~~or services~~, except as otherwise provided herein; *provided, that the sale of any motor vehicle or mobile home of a class or type which is required to be registered in this state or in any other state shall be deemed to have occurred only in the county identified as the residence address of the purchaser on the registration or title document for such property;*

(b) The event for which an admission is charged is located in the county;

(c) The consumer of utility or wired television services is located in the county, or the telecommunication services are provided to a location within the county;

(d) The user of any aircraft ~~or, boat, motor vehicle, or mobile home~~ of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government imported into the county for use, consumption, distribution, or storage to be used or consumed in the county is located in the county; however, it shall be presumed that such items used outside the county for 6 months or longer before being imported into the county were not purchased for use in the county. The provisions of this paragraph shall not apply to the use or consumption of such items upon which a like tax of equal or greater amount has been lawfully imposed and paid outside the county;

(e) *The purchaser of any motor vehicle or mobile home of a class or type which is required to be registered in this state is a resident of the taxing county as determined by the address appearing on or to be reflected on the registration document for such property;*

(f) *Any motor vehicle or mobile home of a class or type which is required to be registered in this state is imported from another state into the taxing county by a user residing therein for the purpose of use, consumption, distribution, or storage in the taxing county; however, it shall be presumed that such items used outside the taxing county for 6 months or longer before being imported into the county were not purchased for use in the county;*

(g)(e) The real property which is leased or rented is located in the county;

(h)(f) The transient rental transaction occurs in the county; or

(i)(g) ~~The delivery of any aircraft or, boat, motor vehicle, or mobile home of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government is to a location in the county; however, the provisions of this paragraph shall not apply to the use or consumption of such items upon which a like tax of equal or greater amount has been lawfully imposed and paid outside the county; or~~

(j)(h) The dealer owing a use tax on purchases or leases is located in the county.

(7) *With respect to any motor vehicle or mobile home of a class or type which is required to be registered in this state, the tax due on a transaction occurring in the taxing county as herein provided shall be collected from the purchaser or user incident to the titling and registration of such property, irrespective of whether such titling or registration occurs in the taxing county.*

(8) *The department shall promulgate by rule the brackets applicable to transactions which are subject to the surtax.*

Section 77. Effective upon this act becoming law, subsections (1) and (3) of section 212.055, Florida Statutes, as created by chapter 87-239, Laws of Florida, are amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

#### (1) CHARTER COUNTY TRANSIT SYSTEM SURTAX.—

(a) Each charter county which adopted a charter prior to June 1, 1976, and each county the government of which is consolidated with that of one or more municipalities may levy a discretionary sales surtax, subject to approval by a majority vote of the electorate of the county.

(b)~~1~~. The rate shall be up to one-fifth (20 percent) or in incremental parts thereof as established by the county governing body, of any amount of tax imposed by and paid to the state pursuant to this part, except this section and s. 212.054.

~~2.—Notwithstanding subparagraph 1., for any county the government of which is consolidated with that of one or more municipalities, upon the retirement of any bonds which were issued for the construction of roads and bridges and which were outstanding on the effective date of this act, the rate shall be one-tenth (10 percent) of any amount of tax imposed by and paid to the state pursuant to this part, except this section and s. 212.054.~~

(c) The proposal to adopt a discretionary sales surtax as provided in this subsection and to create a rapid transit trust fund within the county accounts shall be placed on the ballot in accordance with law at a time to be set at the discretion of the governing body.

(d) Proceeds from the surtax shall be:

1. Deposited by the county in the rapid transit trust fund and shall be used only for the purposes of development, construction, equipment, maintenance, operation, supportive services, including a countywide bus system, and related costs of a fixed guideway rapid transit system; or

2. Remitted by the governing body of the county to an expressway or transportation authority created by law to be used, at the discretion of such authority, for the development, construction, operation, or maintenance of roads or bridges in the county, the operation and maintenance of a bus system, or the payment of principal and interest on existing bonds issued for the construction of such roads or bridges, and, upon approval by the county commission, such proceeds may be pledged for bonds issued to refinance existing bonds or new bonds issued for the construction of such roads or bridges.



(e) Notwithstanding the provisions of s. 212.054(5), the surtax shall take effect on the first day of a month as fixed by the county governing body; however, the surtax shall not take effect until at least 60 days following the electors' approval.

### (3) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(a) The governing authority in each county may levy, for a period of up to 15 years from the date of levy, a discretionary sales surtax of up to one-tenth 20 percent of any tax paid to the state pursuant to this part, except this section, s. 212.054 and s. 212.0305; provided that the governing authority in any county with a population of 50,000 or less may levy a discretionary sales surtax of two-tenths of any tax paid to the state pursuant to this part. Such governing authority may levy such surtax in an amount equal to 5, 10, 15 or 20 percent of said state tax. The levy of the surtax shall be pursuant to ordinance enacted by a majority vote plus one of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax. If the governing bodies of the municipalities representing a majority of the county's municipal population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax shall be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax. No referendum election called pursuant to the provisions of this subsection shall be held between March 9 and December 31, 1988.

(b) A statement which includes a brief general description of the projects to be funded by the surtax and which conforms to the requirements of s. 101.161 shall be placed on the ballot by the governing authority of any county which enacts an ordinance calling for a referendum on the levy of the surtax or in which the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions calling for a referendum on the surtax. The following question shall be placed on the ballot:

... FOR the one-half-cent sales tax

... AGAINST the one-half-cent sales tax

(c) At least 7 days prior to the governing authorities' vote on the Local Option Infrastructure Surtax ordinance, the governing authority shall hold a public hearing to take public testimony on the adoption of the surtax and to explain the need for the surtax and to describe the projects to be funded by the surtax. At least 7 days prior to the public hearing, the governing authority shall advertise in a newspaper of general paid circulation in the county its intent to consider adoption of the surtax and the time and location of the public hearing. The advertisement shall be of the form:

#### NOTICE OF SALES TAX INCREASE

The (. . . name of taxing authority. . . ) will soon consider a measure to increase the sales tax rate by one-half percent in (. . . name of county. . . ) county for a period of (. . . number of years. . . ) years for the purpose of funding infrastructure projects. All concerned citizens are invited to a public hearing on the tax increase to be held on (. . . date and time. . . ) at (. . . meeting place. . . ). A decision on the proposed tax increase will be made on (. . . date and time. . . ) at (. . . meeting place. . . ).

(d)(e) Pursuant to s. 212.054(4), the proceeds of the surtax levied under this subsection shall be distributed to the county and the municipalities within such county in which the surtax was collected, according to:

1. An interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal county population; or

2. If there is no interlocal agreement, according to the formula provided in s. 218.62.

(d) ~~The provisions of s. 212.054(2)(b)1. relating to the sales amount above \$1,000 on any item of tangible personal property shall not apply to the surtax authorized by this subsection. The sales amount above \$5,000 on any item of tangible personal property shall not be subject to the surtax imposed by this subsection.~~

(e) The department shall promulgate by rule the brackets applicable to transactions which are subject to the surtax.

(f)1. The proceeds of the surtax authorized by this subsection and any interest accrued thereto shall be expended within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, purchase and construct and provide public facilities to meet the standards established in the capital improvements element required by s. 163.3177, infrastructure. ~~Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure.~~

2. For the purposes of this paragraph "infrastructure" means any fixed capital expenditure or fixed capital costs associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years and any land acquisition, land improvement, design and engineering costs related thereto.

(g) Counties and municipalities receiving proceeds under the provisions of this subsection may pledge such proceeds for the purpose of servicing new bond indebtedness incurred pursuant to law. Local governments may use the services of the Division of Bond Finance of the Department of General Services pursuant to the State Bond Act to issue any bonds through the provisions of this subsection. In no case may a jurisdiction issue bonds pursuant to this subsection more frequently than once per year. Counties and municipalities may join together for the issuance of bonds authorized by this subsection.

(h) Counties and municipalities shall not use the surtax proceeds to supplant or replace user fees or to reduce ad valorem taxes existing prior to the levy of the surtax authorized by this subsection.

(i) No ordinance enacting the levying of such surtax shall be adopted after November 30, 1992. No referendum proposing the levying of such surtax shall be held after November 30, 1992.

(j) Notwithstanding the provisions of s. 212.054(5), the surtax shall take effect on the first day of a month as fixed by the ordinance adopted pursuant to paragraph (3)(a); however, the surtax shall not take effect until at least 60 days following the adoption of the ordinance or the electors' approval, whichever is applicable.

Section 78. Effective January 1, 1988, paragraph (b) of subsection (1) of section 212.06, Florida Statutes, 1986 Supplement, as amended by chapter 87-6, Laws of Florida, is amended to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(1)

(b) Except as otherwise provided, any person who manufactures, produces, compounds, processes, or fabricates in any manner tangible personal property for his own use shall pay a tax upon the cost of the product manufactured, produced, compounded, processed, or fabricated without any deduction therefrom on account of the cost of material used, labor or service costs, or transportation charges, notwithstanding the provisions of s. 212.02 defining "cost price." However, the tax levied under this paragraph shall not be imposed upon any person who manufactures or produces electrical power or energy, steam energy, or other energy, when such power or energy is used directly and exclusively in the operation of machinery or equipment that is used to manufacture, process, compound, produce, fabricate, or prepare for shipment tangible personal property for sale or to operate pollution control equipment, maintenance equipment, or monitoring or control equipment used in such operations. The manufacturing or production of electrical power or energy that is used for space heating, lighting, office equipment, or air conditioning or any other nonmanufacturing, nonprocessing, noncompounding, nonproducing, nonfabricating, or nonshipping activity is taxable. Electrical power or energy consumed or dissipated in the transmission or distribution of electrical power or energy for resale is also not taxable. Fabrication labor shall not be taxable when a person is using his own equipment and his own personnel, for his own account, as a producer, subproducer, or coproducer of a videotape or motion picture qualified motion picture as defined in s. 212.0592(18)(b) prepared for showing on screens or through television, for either theatrical, commercial, advertising, or educational purposes.

Section 79. Paragraph (a) of subsection (4) of section 212.08, Florida Statutes, is amended and paragraph (i) is added to subsection (5) of said section, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by part I of this chapter.

(4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES, ETC.—

(a) Also exempt are:

1. Water (not exempting mineral water or carbonated water).

2. All fuels used by a public or private utility, including any municipal corporation or rural electric cooperative association, in the generation of electric power or energy for sale. Fuel other than motor fuel and special fuel is taxable as provided in this part, with the exception of fuel expressly exempt herein. However, diesel fuel and kerosene used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm are taxable as provided in part II. Motor fuels and special fuels are taxable as provided in part II, with the exception of those motor fuels and special fuels used by railroad locomotives or vessels to transport persons or property in interstate or foreign commerce which are taxable under this part only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier's railroad locomotives or vessels which were used in interstate or foreign commerce and which had at least some Florida mileage during the previous fiscal year of the carrier, such ratio to be determined at the close of the fiscal year of the carrier. This ratio shall be applied each month to the total Florida purchases made in this state of gasoline and other fuels to establish that portion of the total used and consumed in intrastate movement and subject to tax under this part. Fuels used exclusively in intrastate commerce do not qualify for the proration of tax.

3. *The transmission or wheeling of electricity.*

(5) EXEMPTIONS; ACCOUNT OF USE.—

(i) *There shall be exempt from the tax imposed by this part all charges for aircraft modification services, including parts and equipment furnished or installed in connection therewith, performed under authority of a supplemental type certificate issued by the Federal Aviation Administration.*

Section 80. Subsections (3) and (4) of section 31 of chapter 87-6, Laws of Florida, as amended by chapter 87-101, Laws of Florida, and subsection (5) of said section, as created by chapter 87-101, Laws of Florida, are hereby repealed.

Section 81. Subsection (10) of section 212.12, Florida Statutes, as amended by section 17 of chapter 87-6, section 6 of chapter 87-99, section 16 of chapter 87-101, and section 8 of chapter 87-402, Laws of Florida, is amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(10) In charter counties which have adopted the discretionary 1-percent tax, the department shall promulgate by rule the brackets applicable to following brackets shall be applicable to all taxable transactions which would otherwise have been transactions taxable at the rate of 5 percent.:

(a) ~~On single sales of less than 10 cents, no tax shall be added.~~

(b) ~~On single sales in amounts from 10 cents to 16 cents, both inclusive, 1 cent shall be added for taxes.~~

(c) ~~On sales in amounts from 17 cents to 33 cents, both inclusive, 2 cents shall be added for taxes.~~

(d) ~~On sales in amounts from 34 cents to 50 cents, both inclusive, 3 cents shall be added for taxes.~~

(e) ~~On sales in amounts from 51 cents to 66 cents, both inclusive, 4 cents shall be added for taxes.~~

(f) ~~On sales in amounts from 67 cents to 83 cents, both inclusive, 5 cents shall be added for taxes.~~

(g) ~~On sales in amounts from 84 cents to \$1, both inclusive, 6 cents shall be added for taxes.~~

(h) ~~On sales in amounts from \$1 up to, and including, the first \$1,000 in price, 6 percent shall be charged upon each dollar of price, plus the appropriate bracket charge upon any fractional part of a dollar.~~

(i) ~~On sales in amounts of more than \$1,000 in price, 6 percent shall be added upon the first \$1,000 in price, and 5 percent shall be added upon each dollar of price in excess of the first \$1,000 in price, plus the bracket charges upon any fractional part of a dollar as provided for in subsection (9).~~

Section 82. Section 33 of chapter 87-6, Laws of Florida, as amended by chapter 87-101, Laws of Florida, is amended to read:

Section 33. (1) The Legislature hereby finds that the failure to promptly implement the provisions of this act would present an immediate threat to the welfare of the state because revenues needed for operation of the state would not be collected. Therefore, the executive director of the Department of Revenue is hereby authorized to adopt emergency rules pursuant to s. 120.54(9), Florida Statutes, for purposes of implementing this act. ~~Notwithstanding any other provision of law, such emergency rules shall remain effective for 6 months from the date of adoption.~~ All rules heretofore or hereafter adopted pursuant to s. 120.54(9), Florida Statutes, for purposes of implementing this act, chapters 87-6 or 87-101, Laws of Florida, shall remain effective through June 30, 1988, unless earlier invalidated judicially or pursuant to s. 120.56, Florida Statutes, on grounds that they, or any of them, constitute an invalid exercise of delegated legislative authority; however, no such rule shall be deemed invalid in any form for any claimed lack of an emergency.

(2) Other rules of the Department of Revenue related to and in furtherance of the orderly implementation of chapter 87-6 or chapter 87-101, Laws of Florida, and this act shall not be subject to a s. 120.54(4), Florida Statutes, rule challenge or a s. 120.54(17), Florida Statutes, draw-out proceeding, but, once adopted, shall be subject to a s. 120.56, Florida Statutes, invalidity challenge. Such rules shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(13), Florida Statutes.

Section 83. Section 36 of chapter 87-6, Laws of Florida, as amended by chapter 87-101, Laws of Florida, is amended to read:

Section 36. Any penalties provided for pursuant to s. 212.12(2), Florida Statutes, shall be waived by the executive director of the Department of Revenue for returns due for the tax on services newly imposed by this act. If the executive director determines that the interest owed pursuant to s. 212.12(3), Florida Statutes, will cause an undue hardship on the taxpayer, he may also waive the interest payment. The waiver for penalties and interest shall apply with respect to returns for taxes due and payable for the period between July 1, 1987, and December 31, 1987 ~~September 30, 1987.~~

Section 84. Section 47 of chapter 87-6, Laws of Florida, as amended by chapter 87-101, Laws of Florida, is hereby repealed.

Section 85. Section 28 of chapter 87-101, Laws of Florida, is amended to read:

Section 28. There is hereby appropriated from the General Revenue Fund the sum of \$364,757 to the Division of Administrative Hearings of the Department of Administration, and six positions are hereby authorized, for purposes of implementing the provisions of chapter 87-6, Laws of Florida, and this act.

Section 86. Effective January 1, 1988, subsection (1) of section 201.02, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

201.02 Tax on deeds and other instruments relating to real property or interests in real property.—

(1) On deeds, instruments, or writings whereby any lands, tenements, or other real property, or any interest therein, shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or any other person by his direction, on each \$100 of the consideration therefor the tax shall be 65 55 cents. When the full amount of the consideration for the execution, assignment, transfer, or conveyance is not shown in the face of such deed, instrument, document, or writing, the tax shall be at the rate of 65 55 cents for each \$100 or fractional part thereof of the consideration therefor.

Section 87. Effective February 1, 1988, section 201.15, Florida Statutes, as amended by chapters 87-6 and 87-96, Laws of Florida, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under the provisions of this chapter shall be distributed as follows:

(1) *Fifty four and nine-tenths* ~~Sixty and eight-tenths~~ percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the General Revenue Fund of the state, to be used and expended for the purposes for which the General Revenue Fund was created and exists by law.

(2) *Ten and five-tenths* ~~Eleven and eight-tenths~~ percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Sums deposited in such fund pursuant to this subsection may be used for any purpose for which funds deposited in the Land Acquisition Trust Fund may lawfully be used and may be used to pay the cost of the collection and enforcement of the tax levied by this chapter.

(3) *Two and seven-tenths* ~~Three~~ percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Moneys deposited in the trust fund pursuant to this section shall be used for the following purposes:

(a) Sixty percent of the moneys shall be used to acquire coastal lands or to pay debt service on bonds issued to acquire coastal lands; and

(b) Forty percent of the moneys shall be used to develop and manage lands acquired with moneys from the Land Acquisition Trust Fund.

(4) *Eight and two-tenths* ~~Nine and two-tenths~~ percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Water Management Lands Trust Fund. Sums deposited in that fund may be used for any purpose authorized in s. 373.59 and may be used to pay the cost of the collection and enforcement of the tax levied by this chapter.

(5) *Sixteen and five-tenths* ~~six~~ percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the State Infrastructure Trust Fund.

(6) *Eight and two-tenths* ~~Nine and two-tenths~~ percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Conservation and Recreation Lands Trust Fund to carry out the purposes set forth in s. 253.023.

Section 88. Effective November 1, 1987, paragraph (b) of subsection (1) of section 206.87, Florida Statutes, as created by chapter 87-6, Laws of Florida, is hereby repealed.

Section 89. (1) Effective November 1, 1987, section 207.026, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

207.026 Allocation of tax.—All moneys derived from the taxes and fees imposed by this chapter shall be paid into the State Treasury by the department for deposit in the Gas Tax Collection Trust Fund, from which the following transfers shall be made: After withholding \$50,000 from the proceeds therefrom, to be used as a revolving cash balance, the funds for the purpose of conducting the study as set forth in s. 4 of chapter 80-415, Laws of Florida, and the amount of funds necessary for the administration and enforcement of this tax, all other moneys shall be transferred in the same manner and for the same purpose as provided in ss. 206.41, 206.45, 206.60, 206.605, ~~206.875~~, and 212.69.

(2) It is the intent of the Legislature that the amendment of s. 207.026, Florida Statutes, by this act shall not affect the amendment of said section by section 13 of chapter 87-198, Laws of Florida, which is to take effect March 1, 1988.

Section 90. Effective January 1, 1988, subsection (1) of section 212.235, Florida Statutes, as created by chapter 87-6, Laws of Florida, and amended by chapter 87-101, Laws of Florida, is amended to read:

212.235 State Infrastructure Trust Fund; deposits.—

(1) Notwithstanding the provisions of ss. 212.20(1) and 218.61, in fiscal year 1987-88 an amount equal to 2 percent, and in each fiscal year thereafter an amount equal to 5 percent, of the proceeds remitted pursu-

ant to this part by a dealer, or the sums sufficient to provide the maximum receipts specified herein shall be transferred into the State Infrastructure Trust Fund, which is created in the State Treasury. "Proceeds" means all funds collected and received by the Department of Revenue, including any interest and penalties. However, any receipts of the trust fund, including those received pursuant to ss. 201.15(5) and ~~206.875(3)~~ and interest earned, in excess of \$200 million in fiscal year 1987-1988, and \$500,165 million thereafter, shall revert to the General Revenue Fund.

Section 91. Paragraph (d) of subsection (2) of section 215.32, Florida Statutes, as amended by chapter 87-247, Laws of Florida, is amended to read:

215.32 State funds; segregation.—

(2) The source and use of each of these funds shall be as follows:

(d) The State Infrastructure Fund shall consist of all moneys received from proceeds earmarked for this fund pursuant to ss. ~~201.15, 206.875, and 212.235~~. Such moneys shall only be expended pursuant to legislative appropriations for infrastructure facilities listed in s. 212.235(2).

Section 92. Effective November 1, 1987, paragraph (a) of subsection (2) of section 212.04, Florida Statutes, as amended by chapters 87-6 and 87-101, Laws of Florida, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(2)(a)1. No tax shall be levied on admissions to athletic or other events sponsored by elementary schools, junior high schools, middle schools, high schools, community colleges, public or private colleges and universities, deaf and blind schools, facilities of the youth services programs of the Department of Health and Rehabilitative Services, and state correctional institutions when only student, faculty, or inmate talent is utilized. However, this exemption shall not apply to admission to athletic events sponsored by an institution within the State University System, and the proceeds of the tax collected on such admissions shall be retained and utilized by each institution to support women's athletics as provided in s. 240.533(4)(c).

2. No tax shall be levied on dues, membership fees and admission charges imposed by not-for-profit religious sponsoring organizations or community or recreational facilities. To receive this exemption, the sponsoring organization or facility must qualify as a not-for-profit entity under the provisions of s. 501(c)(3) of the United States Internal Revenue Code of 1954, as amended.

3. No tax shall be levied on an admission paid by a student, or on his behalf, to any required place of sport or recreation if the student's participation in the sport or recreational activity is required as a part of a program or activity sponsored by, and under the jurisdiction of, the student's educational institution, provided his attendance is as a participant and not as a spectator.

4. No tax shall be levied on admissions to the National Football League championship game.

5. No tax shall be levied on admissions to athletic or other events sponsored by governmental entities.

Section 93. The Department of Revenue is hereby directed to undertake a review of its records in an effort to identify new dealers registered to collect the tax on services who will no longer be required to collect taxes pursuant to chapter 212, Florida Statutes, as a result of this act. To the extent that the information provided to the department by a dealer is sufficient to allow the department to identify such a dealer, the department shall notify the dealer that he is no longer required to collect the tax, and the department shall refund the dealer's \$5.00 registration fee pursuant to s. 215.26. Notwithstanding the provisions of s. 215.26, no application for refund shall be required if the department, based on its records, can identify a dealer as a person no longer required to collect tax. Any other dealer who registered to collect the tax on services, and who is no longer required to collect the tax, shall be entitled to a refund of the \$5.00 registration fee. Such refunds shall be made pursuant to s. 215.26.

Section 94. Effective April 15, 1988, subsection (4) of section 125.0167, Florida Statutes, as created by chapter 83-220, Laws of Florida, is hereby repealed.

Section 95. Effective April 15, 1988, section 3 of chapter 83-220, Laws of Florida, is amended to read:

Section 3. This act shall take effect October 1, 1983, and the provisions thereof shall expire and be void and inoperative on October 1, 2010 1993.

Section 96. Paragraph (mm) is added to subsection (1) of section 216.011, Florida Statutes, as amended by section 3 of chapter 87-137, Laws of Florida, to read:

216.011 Definitions.—

(1) For the purpose of fiscal affairs of the state, appropriations acts, legislative budgets, and approved budgets, each of the following terms has the meaning indicated:

(mm) "*Proviso*" means language that qualifies or restricts a specific appropriation and which can be logically and directly related to the specific appropriation.

Section 97. Subsection (7) of section 216.031, Florida Statutes, as amended by section 5 of chapter 87-137, Laws of Florida, is hereby repealed.

Section 98. Section 216.046, Florida Statutes, is amended to read:

216.046 Governor's supplemental recommendations.—The Governor may make supplemental revenue and appropriation recommendations to the Legislature at least 45 days prior to the annual session in any even-numbered year. The supplemental recommendations shall include the information required in ss. 216.162-216.168 and shall use as a base the most recent legislative appropriations act or approved operating budget.

Section 99. Section 216.081, Florida Statutes, is amended to read:

216.081 Data on legislative expenses.—

(1) On or before November 1 in each even-numbered year, in sufficient time to be included in the Governor's recommended budget report to the Legislature, estimates of the financial needs of the legislative branch during the ensuing biennium shall be furnished to the Governor pursuant to chapter 11.

(2) All of the data relative to the legislative branch shall be for information and guidance in estimating the total financial needs of the state for the ensuing biennium; but none of these estimates shall be subject to revision or review by the Governor, and they must be included in his recommended budget report to the Legislature.

Section 100. Section 216.167, Florida Statutes, is amended to read:

216.167 Governor's recommendations.—The Governor's recommendations shall include a financial schedule which shall provide:

(1) His estimate of the recommended recurring revenues available in the Working Capital Fund, the State Infrastructure Fund, and the General Revenue Fund.

(2) His estimate of the recommended nonrecurring revenues available in the Working Capital Fund, the State Infrastructure Fund, and the General Revenue Fund.

(3) His recommended recurring and nonrecurring appropriations from the Working Capital Fund, the State Infrastructure Fund, and the General Revenue Fund, and the Federal Revenue Sharing Fund.

(4) His estimates of any interfund loans or temporary obligations of the Working Capital Fund or trust funds, which loans or obligations are needed to implement his recommended budget.

(5) His estimates of the debt service and reserve requirements for any recommended new bond issues or reissues and his recommended debt service appropriations for all outstanding fixed capital outlay bond issues.

Section 101. Subsection (1) of section 216.181, Florida Statutes, as amended by section 58 of chapter 87-224, Laws of Florida, is amended to read:

216.181 Approved budgets for operations and fixed capital outlay.—

(1) On or before the fifth day before the end of the period allowed by law for veto consideration in July 1 of any year in which an appropriation is made, the chairmen of the legislative appropriations committees shall jointly transmit a statement of intent, including performance and workload measures as appropriate and the official list of General Revenue

Fund appropriations determined in consultation with the Executive Office of the Governor to be nonrecurring, to the Executive Office of the Governor, the Comptroller, the Auditor General, and each state agency. The statement of intent may not allocate or appropriate any funds, or amend or correct any provision, in the General Appropriations Act, but may provide additional direction and explanation to the Executive Office of the Governor, the Administration Commission, and each affected state agency relative to the purpose, objectives, spending philosophy, and restrictions associated with any specific appropriation category. The statement of intent shall compare the request of the agency or the recommendation of the Governor to the funds appropriated for the purpose of establishing intent in the development of the approved operating budget. A request for additional explanation and direction regarding the legislative intent of the general appropriations act during the fiscal year may be made only by and through the Executive Office of the Governor as is deemed necessary. However, the Comptroller may also request further clarification of legislative intent pursuant to his responsibilities related to his preaudit function of expenditures.

Section 102. Subsection (5) of section 216.292, Florida Statutes, is amended to read:

216.292 Appropriations nontransferable; exceptions.—

(5) The Executive Office of the Governor may approve any transfer from the Working Capital Fund to the General Revenue Fund provided such transfer was identified or contemplated by the Legislature in the original approved operating budget.

Section 103. Paragraph (c) of subsection (1) of section 216.301, Florida Statutes, is amended to read:

216.301 Appropriations; undisbursed balances.—

(1)

(c) Each department shall maintain the integrity of the general revenue fund. Appropriations from the general revenue fund for any state agency contained in the original approved operating budget may, with the approval of the Executive Office of the Governor, be transferred to the proper trust fund for disbursement. However, all transferred general revenue funds which are unexpended on June 30 are subject to the general revenue reversion provision of this chapter.

Section 104. Subsections (2) and (3) of section 235.41, Florida Statutes, as amended by section 47 of chapter 87-329, Laws of Florida, are amended to read:

235.41 Legislative capital outlay budget request.—

(2) The commissioner shall submit to the Governor and to the Legislature an integrated, comprehensive budget request for educational facilities construction and fixed capital outlay needs for all boards, including the Board of Regents, pursuant to the provisions of s. 235.435 and applicable provisions of chapter 216. Each board, including the Board of Regents, shall submit to the commissioner a 3-year plan and data required in the development of the annual capital outlay budget. No further disbursements shall be made from the Public Education Capital Outlay and Debt Service Trust Fund to a board that fails to timely submit the required data until such board submits the data.

(3) The commissioner shall submit an integrated, comprehensive budget request to the Executive Office of the Governor and to the Legislature no later than 60 45 days prior to the legislative session each fiscal year. Notwithstanding the provisions of s. 216.043, the integrated, comprehensive budget request shall include:

(a) For the Public Education Capital Outlay and Debt Service Trust Fund and all sinking and investment accounts which are in receipt of any portion of the revenue sources listed in s. 235.42(2)(a):

1. A schedule for each fund showing the actual beginning cash balance for each of the 2 prior fiscal years and showing for the current fiscal year the estimated beginning cash balance and a listing of all disbursements and receipts.

2. For the budget fiscal year for each fund, the projected beginning cash balance, a monthly projection of all receipts, and a monthly projection of all disbursements.

3. For the budget fiscal year, necessary forecasting data to enable the commissioner to prepare and submit a monthly gross receipts tax fore-

cast, a monthly bond proceeds estimate, the interest rate assumption used in the bond proceeds estimate, a monthly interest earnings forecast, the interest rate assumption used in the calculation of interest to be received on the idle balances invested, and any other reports as deemed necessary by the Legislature.

(b)(4) Recommendations for the priority of expenditure of funds in the state system of public education, with reasons for the recommended priorities, and other recommendations which relate to the effectiveness of the educational facilities construction program.

All items in s. 235.435 shall be part of the legislative budget request submitted by the commissioner.

Section 105. Except as otherwise provided herein, this act shall take effect November 1, 1987.

**Amendment 2**—In title, on page 1, line 1, strike the entire title and insert:

A bill to be entitled An act relating to taxation; repealing s. 212.059, F.S., which provides for levy of the tax on sales, use and other transactions on the sale and use of services; repealing s. 212.0591, F.S., which provides rules of construction with respect to said tax; repealing s. 212.0592, F.S., which provides exemptions from said tax; repealing s. 212.0593, F.S., which provides for administration of the exemption for services sold in this state for use outside this state; repealing s. 212.0594, F.S., which provides special provisions applicable to the tax on construction services; amending ss. 212.03, 212.031, 212.04, and 212.05, F.S.; increasing the tax on transient rentals, the lease or rental of or license in real property, admissions, and sales, storage, and use; amending s. 212.055, F.S., relating to discretionary sales surtaxes, to conform; revising provisions and requirements with respect to imposition of the Local Government Infrastructure Surtax and expenditure of the proceeds; amending s. 212.08, F.S.; increasing the tax on certain farm equipment and flyable aircraft; amending s. 212.12, F.S., relating to dealer's credit for collecting tax; establishing applicable brackets; authorizing the Executive Director of the Department of Revenue to negotiate a collection allowance with a dealer who makes mail order sales; providing for rules; providing limit for collection allowance; amending s. 218.61, F.S.; revising the local government half-cent sales tax distribution formula; repealing s. 212.0595, F.S., which provides special provisions applicable to tax on advertising; amending s. 212.0598, F.S., which specifies conditions under which certain air carriers may elect to be subject to the tax on services and tangible personal property; removing application to services; amending s. 212.02, F.S.; revising definitions; amending ss. 212.031, 212.054, 212.06, 212.07, 212.08, 212.095, 212.12, 212.13, 212.14, 212.17, 212.18, 212.21, and 212.61, F.S.; revising and deleting exemptions from the tax on rental, lease, or granting a license for use of real property; modifying provisions relating to the limitations and collection of the discretionary sales surtax; revising an exemption for fabrication labor associated with video tapes or motion pictures; providing an exemption for feminine hygiene products; providing an exemption for transmission or wheeling of electricity; revising an exemption for film rentals; specifying that professional, insurance, and personal services are exempt; revising and conforming language; specifying application of tax to certain persons who manufacture factory-built buildings; repealing s. 212.11(1)(d), F.S., which authorizes quarterly returns for certain dealers registered as service providers; repealing s. 32(1) of chapter 87-6, Laws of Florida, relating to self-accrual of tax for purchasers of services; repealing ss. 38, 47, and 109 of chapter 87-6, Laws of Florida, relating to construction with respect to disclosure of privileged information, a study of service transactions by the Department of Revenue, and a tax hot-line; amending s. 212.235, F.S.; revising provisions relating to the State Infrastructure Trust Fund and renaming the fund; amending s. 215.32, F.S., relating to funding of the State Infrastructure Fund; amending s. 201.02, F.S.; reducing the tax on deeds and other instruments relating to real property; amending s. 201.15, F.S.; revising the distribution of the tax; repealing ss. 206.87(1)(b) and 206.875(3), F.S.; removing the levy of an additional tax on special fuels; amending s. 207.026, F.S., relating to allocation of the tax on commercial motor vehicles, to conform; repealing s. 57.071(3), F.S., which provides for the inclusion of sales or use tax on legal services within court costs; repealing s. 57.111(3)(d)3., F.S., which expands the definition of "small business party" with respect to civil actions or administrative proceedings initiated by state agencies to include certain persons contesting the legality of any assessment of tax imposed for the sale or use of services; repealing s. 120.575(1)(b), F.S., which provides procedures for taxpayer contest proceedings to contest the legality of any assessment of the tax on services; amending s. 120.57, F.S., to conform; repealing s.

120.65(5), F.S., which provides for the appointment of a panel to be the hearing officer in such taxpayer contest proceedings; repealing s. 213.30, F.S., which provides compensation for persons who provide information relating to a violation of tax laws; providing certain recordkeeping requirements and providing for the application of penalties; amending s. 33 of chapter 87-6, Laws of Florida; revising provisions relating to emergency rules; providing intent; providing for rules; amending ss. 216.011, 216.046, 216.081, 216.167, 216.181, 216.292, 216.301, 235.41, F.S.; defining the term "proviso"; providing for Governor's supplemental recommendations; providing for data on legislative expenses; providing for Governor's recommendations; providing for appropriation committee statements of intent; providing for transferability and transfer of appropriations; providing for legislative capital outlay budget request; repealing s. 216.031(7), F.S., as amended, relating to information required in legislative budget requests; providing for contingent repeal; providing for referendum; providing intent; providing effective dates; amending s. 212.059, F.S., and repealing subsection (6) thereof; revising provisions which impose the tax on sales, use and other transactions on the sale of services; revising provisions relating to sale outside this state; removing provisions that require applicants for specified permits to attest that applicable use taxes have been paid; amending s. 212.0591, F.S., relating to rules of construction with respect to determining where a service is used; repealing s. 212.0592(6)-(51), F.S., which provide exemptions from the tax on services; amending s. 212.0592, F.S., to conform provisions relating to exemptions from the tax on services; amending s. 212.0593, F.S., relating to administration of the exemption for services sold in this state for use outside this state; revising provisions relating to use of exempt purchase permits and affidavits; amending s. 212.0594, F.S.; revising special provisions relating to construction; repealing s. 212.0595, F.S., to delete provisions applicable to the tax on advertising; amending s. 212.0598, F.S.; revising special provisions relating to air carriers; amending s. 212.02, F.S.; revising the definitions of "affiliated group" (to become "business group"), "lease, let or rental," "retail sale," "sales price," "service," and "SIC"; amending s. 212.031, F.S.; correcting a cross-reference for the exemption for lease or rental of property used for qualified production services; amending s. 212.055, F.S.; revising provisions relating to the charter county transit system surtax and the local government infrastructure surtax; amending s. 212.06, F.S.; revising an exemption for fabrication labor associated with videotapes or motion pictures; amending s. 212.08, F.S.; providing an exemption for transmission or wheeling of electricity; providing an exemption for aircraft modification services; repealing s. 31(3), (4) and (5) of chapter 87-6, Laws of Florida, relating to an exemption for certain improvements to real property; removing provisions relating to a required application, a time limitation, and a report to the Legislature by the Department of Revenue; amending s. 33 of chapter 87-6, Laws of Florida; revising provisions relating to emergency rules; amending s. 36 of chapter 87-6, Laws of Florida; revising provisions relating to waiver of penalties; repealing s. 47 of chapter 87-6, Laws of Florida, relating to a study of service transactions by the Department of Revenue; amending s. 28 of chapter 87-101, Laws of Florida; authorizing certain positions for the Division of Administrative Hearings; amending s. 201.02, F.S.; providing for the levy of an additional tax on deeds and other instruments relating to real property; amending s. 201.15, F.S.; providing for payment of such additional tax into the State Infrastructure Fund; revising the current distribution of the tax; repealing s. 206.87(1)(b), F.S.; removing the levy of an additional tax on special fuels; amending s. 207.026, F.S., relating to allocation of the tax on commercial motor vehicles, to conform; amending s. 212.235 and s. 215.32, F.S., relating to the State Infrastructure Trust Fund, to conform; amending s. 212.04, F.S.; creating an exemption for dues and admission charges imposed by nonprofit community or recreational facilities; requiring the Department of Revenue to notify certain registered dealers of the repeal of the tax on certain services; requiring the department to refund dealer registration fees for certain dealers no longer required to collect tax; repealing s. 125.0167(4), F.S., which sunsets effective October 1, 1993, the discretionary surtax on documents levied by certain counties; amending section 3 of chapter 83-220, Laws of Florida, to extend until October 1, 2010, the discretionary surtax on documents levied by certain counties; amending ss. 216.011, 216.046, 216.081, 216.167, 216.181, 216.292, 216.301, 235.41, F.S.; defining the term "proviso"; providing for Governor's supplemental recommendations; providing for data on legislative expenses; providing for Governor's recommendations; providing for appropriation committee statements of intent; providing for transferability and transfer of appropriations; providing for legislative capital outlay budget request; repealing s. 216.031(7), F.S., as amended, relating to information required in legislative budget requests; providing effective dates.



Senator Plummer moved the following amendment to House Amendment 1 which failed:

**Amendment 1**—On page 1, line 5, after the word "may" insert: , subject to a referendum held by such county,

Senators Weinstein, Myers, Johnson, Langley, Grant, Hair, McPherson and Ros-Lehtinen offered the following amendment to House Amendment 1 which was moved by Senator Weinstein and failed:

**Amendment 2**—On page 146, between lines 13 and 14, insert:

3. Legal services furnished in the prosecution or defense of civil actions for personal injury or wrongful death.

The vote was:

Yeas—17

Crenshaw	Jenne	McPherson	Thurman
Dudley	Johnson	Meek	Weinstein
Girardeau	Kiser	Myers	
Grant	Langley	Plummer	
Hair	Lehtinen	Ros-Lehtinen	

Nays—17

Mr. President	Deratany	Kirkpatrick	Weinstock
Barron	Frank	Malchon	Woodson
Brown	Gordon	Peterson	
Childers, D.	Hill	Stuart	
Childers, W. D.	Hollingsworth	Thomas	

On motions by Senator Deratany, the Senate concurred in the House amendments.

#### Senator Thomas presiding

CS for CS for SB 5-B passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—21

Mr. President	Girardeau	Malchon	Stuart
Brown	Gordon	McPherson	Thomas
Childers, W. D.	Hill	Meek	Weinstock
Crawford	Jenne	Peterson	
Deratany	Jennings	Plummer	
Frank	Kirkpatrick	Scott	

Nays—16

Barron	Grant	Kiser	Ros-Lehtinen
Childers, D.	Hair	Langley	Thurman
Crenshaw	Hollingsworth	Lehtinen	Weinstein
Dudley	Johnson	Myers	Woodson

#### The President presiding

##### Pair

The following pair was announced by the Secretary in accordance with Senate Rule 5.4:

I am paired with Senator Beard on CS for CS for SB 5-B. If he were present he would vote "yea" and I would vote "nay."

*Gwen Margolis, 37th District*

#### Explanations of Vote

Due to a long standing commitment, I was away for the final vote on CS for CS for SB 5-B. Had I been present I would have voted in favor of CS for CS for SB 5-B.

*Malcolm E. Beard, 22nd District*

I support repeal of the service tax, and I trust the people to vote on that question. I voted against this bill because, if the people voted to keep the services tax, the rich media like ABC, NBC, CBS, the *New York Times* and the Madison Avenue advertising agencies would be let out of paying their fair share while many other services performed by Floridians would still be taxed. That is the height of inequity and I could not vote for it.

*Dempsey J. Barron, 3rd District*

I am voting "yes" on the tax bill today because the Governor has said and reaffirmed in writing that he will veto this legislation. Therefore, in casting my affirmative vote I hope to expedite the process and allow the Governor to veto the bill and then call us back into another special session in which we can again address the outright repeal of the sales tax on services.

*W. D. Childers, 1st District*

This bill repeals the sales tax on services effective January 31, 1988. It is my position to repeal the sales tax on services immediately and replace with a penny increase in the sales tax. This position is reflected in my vote on CS for CS for SB 5-B that was passed by the Senate and sent to the House. The House has refused to consider CS for CS for SB 5-B. I believe the only way to convince the House to pass CS for CS for SB 5-B is to send this bill to the Governor where a veto is certain. The Governor has pledged in writing to veto this bill.

*Bob Crawford, 13th District*

I voted against CS for CS for SB 5-B because I support repeal and replacement rather than revision. This bill, while an improvement from existing law, falls far short of responding to the overwhelming opinion of my constituents and as their Senator I am voting "no." This bill should be defeated and we should remain in session until a repeal and replacement bill is approved by both houses of the legislature.

*John Grant, 21st District*

We have worked diligently during this special session to repeal the sales tax on services. The Florida Senate has voted to repeal the tax. After three weeks of debate it appears the House of Representatives refuses to permit outright repeal. We believe this legislative log-jam can only be resolved by a veto by the Governor. The only way to accomplish this is to convey this bill to him through passage. The Governor has pledged to veto this bill in its present form. We are voting for this bill for procedural purposes only and pledge to continue to work for repeal of the services tax with responsible replacement revenue and budget reform.

*Toni Jennings, 15th District*

*Tim Deratany, 16th District*

*The Honorable John W. Vogt, President*

I am directed to inform the Senate that the House of Representatives has passed as amended HB 29-B and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

By the Committee on Appropriations—

**HB 29-B**—A bill to be entitled An act amending current appropriations for the annual period beginning July 1, 1987 and ending June 30, 1988, adjusting salaries, other expenses, capital outlay-buildings and for other specified purposes of the various agencies of state government; amending specific appropriations appropriated in Chapter 87-98, Laws of Florida; providing an effective date.

On motions by Senator Scott, by unanimous consent HB 29-B was taken up instanter and by two-thirds vote read the second time by title.

Senator Scott moved the following amendment which was adopted:

**Amendment 1**—Strike everything after the enacting clause and insert:

Section 1. There is hereby appropriated to the Department of State, Division of Elections, for Fiscal Year 1987-88, contingent on SB 5-B or similar legislation becoming law, \$3,000,000 from the General Revenue Fund for the purpose of reimbursing local governments for costs incurred in holding special elections authorized in SB 5-B on January 12, 1988.

Section 2. This act shall take effect upon becoming law.

Senators Grant and Frank offered the following amendment which was moved by Senator Grant and adopted:

**Amendment 2**—Insert new section:

Section 1. There is hereby appropriated 35 million dollars from the Working Capital Fund for release by the Administration Commission to the Board of Regents for the Sematech Project. Said release shall take place in September, 1988, unless this authority is superceded during the regular Legislative Session of 1988. This release shall be contingent on:

1. Sematech choosing Florida as the location of its headquarters and principal facilities.

2. The Congress of the U. S. appropriating money in support of Sematech. Working Capital Funds provided under this section may be used by the Board of Regents to lease, renovate, construct, and maintain facilities in Florida.

Section 2. This act shall take effect upon becoming law.

Senator Scott moved the following amendment which was adopted:

**Amendment 3**—Strike everything before the enacting clause and insert:

A bill to be entitled An act providing for supplemental appropriations for expenses, and for other specified purposes of the various agencies of state government; providing an effective date.

On motion by Senator Scott, by two-thirds vote HB 29-B as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Mr. President	Deratany	Jennings	Scott
Barron	Dudley	Kirkpatrick	Stuart
Brown	Frank	Langley	Thomas
Childers, D.	Girardeau	Malchon	Thurman
Childers, W. D.	Grant	McPherson	Weinstein
Crawford	Hollingsworth	Meek	Weinstock
Crenshaw	Jenne	Peterson	Woodson

Nays—8

Hair	Kiser	Margolis	Plummer
Johnson	Lehtinen	Myers	Ros-Lehtinen

Vote after roll call:

Yea to Nay—Hollingsworth

On motion by Senator Scott, the rules were waived and HB 29-B was ordered immediately certified to the House.

On motion by Senator Peterson, the rules were waived and the Senate reverted to—

#### INTRODUCTION AND REFERENCE OF BILLS

On motion by Senator Peterson, by the required constitutional two-thirds vote of the Senate the following bill was admitted for introduction:

By Senators Peterson, Crawford, Malchon, Brown, Deratany, Weinstock and Gordon—

**SB 37-B**—A bill to be entitled An act relating to postsecondary education; amending s. 240.402, F.S., as amended; revising criteria for Florida Undergraduate Scholars' award eligibility; increasing the value of awards from the fund; providing an effective date.

—which was referred to the Committee on Appropriations.

On motions by Senator Peterson, by two-thirds vote SB 37-B was withdrawn from the Committee on Appropriations and by unanimous consent taken up instant.

On motions by Senator Peterson, by two-thirds vote SB 37-B was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Frank	Kiser	Ros-Lehtinen
Barron	Girardeau	Langley	Scott
Brown	Gordon	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hollingsworth	Margolis	Thurman
Crawford	Jenne	McPherson	Weinstein
Crenshaw	Jennings	Meek	Weinstock
Deratany	Johnson	Myers	Woodson
Dudley	Kirkpatrick	Peterson	

Nays—None

On motion by Senator Peterson, the rules were waived and SB 37-B was ordered immediately certified to the House.

#### MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State Senate Bills 24-B, 25-B and 27-B which he approved on October 8, 1987.

#### MESSAGES FROM THE HOUSE OF REPRESENTATIVES

*The Honorable John W. Vogt, President*

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments and passed as amended HB 16-B; and has concurred in Senate amendments and passed as amended, HB 29-B.

*John B. Phelps, Clerk*

*The Honorable John W. Vogt, President*

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required Constitutional two-thirds vote of the membership of the House and passed Senate Bills 35-B and 37-B.

*John B. Phelps, Clerk*

The bills contained in the foregoing message were ordered enrolled.

#### ENROLLING REPORTS

Senate Bills 31-B, 32-B, 33-B and 34-B have been enrolled, signed by the required Constitutional Officers and presented to the Governor on October 8, 1987.

*Joe Brown, Secretary*

#### VOTES RECORDED

Senator Grant was recorded as voting yea on SB 37-B.

#### ADJOURNMENT

On motion by Senator Barron, the Senate adjourned sine die at 5:46 p.m.